



Committee on Health Innovation

**Tuesday, March 6, 2007
4:00 PM
Morris Hall**



House of Representatives
Committee on Health Innovation

A G E N D A

March 6, 2007
4:00 PM - 6:00 PM
Morris Hall

I. Opening Remarks by Chair Garcia

II. Consideration of the following bills:

HB 283 Florida 211 Network by Rep. Chestnut & others

HB 347 Nursing Home Facilities by Rep. Gelber & others

HB 455 Organ and Tissue Donation by Rep. Cretul & others

HB 543 Immunization Services by Rep. Zapata

III. Closing Remarks by Chair Garcia

IV. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 283 Florida 211 Network
SPONSOR(S): Chestnut and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 212

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Innovation		Ciccone <i>JC</i>	Calamas <i>CC</i>
2) Healthcare Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 283 amends section 409.918, Florida Statutes, to expand the Florida 211 Network to provide information and referral services in each county. The bill includes new language to emphasize the benefit of the 211 network, particularly during a disaster. The bill revises the network's objectives to include collaboration among information and referral systems, including those serving persons with disabilities and special health care needs. The bill requires Florida 211 Network providers to coordinate with county emergency management agencies regarding using the 211 Network in the event of a disaster.

The bill designates the Agency for Health Care Administration (agency) as the lead entity to receive and distribute any funds received from the federal government to support the Florida 211 Network. The bill directs the agency to distribute these funds to the Florida Alliance of Information & Referral Services (alliance). The alliance is to make these funds available to 211 providers on a matching basis, with each 211 provider required to match \$1 for \$1 the amount that it is provided from the alliance.

The bill provides a \$5 million appropriation from non-recurring General Revenue Fund to the agency for Fiscal Year 2007-2008, to support the statewide expansion of the Florida 211 Network to all counties and to enhance the operations of existing 211 providers. The bill provides that unencumbered funds may be reappropriated for the 2008-2009 fiscal year in the General Appropriations Act for the same purposes. According to the agency, they require three full-time equivalent positions to implement the bill with recurring costs of \$212,495 in General Revenue funding.

The bill establishes three reporting requirements related to the network as follows:

- By December 15, 2007, 211 providers receiving state funds are required to report to the alliance the expenditure of their funds;
- By January 1, 2008, the alliance is required to provide a statewide report to the agency; and
- No later than February 15, 2008, the agency is required to submit a statewide expenditure report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families—The bill provides for the statewide expansion of the Florida 211 Network to provide increased access for information and referral for health and human services.

Maintain Public Security—The bill requires that 211 service providers coordinate with county emergency management agencies to determine how the 211 Network may be used during a disaster, including a plan to respond with information to assist individuals in the event of a disaster.

B. EFFECT OF PROPOSED CHANGES:

House Bill 283 amends section 409.918, Florida Statutes, to expand the Florida 211 Network to provide information and referral services in each county. The bill includes new language to emphasize the benefit of the 211 Network, particularly during a disaster. The bill revises the network's objectives to include collaboration among information and referral systems, including those serving persons with disabilities and special health care needs. The bill requires Florida 211 Network providers to coordinate with county emergency management agencies regarding using the 211 Network in the event of a disaster. The intended effect of the enhanced coordination and collaboration among entities is a more efficient and effective information referral and assistance system to persons in need of these services, including persons with disabilities and special health needs.

The bill designates the agency as the lead entity to receive and distribute funds that may become available from the federal government to support the Florida 211 Network. Current legislation pending before Congress (S. 211 and H.R. 896) would allocate \$150,000 to all 50 states to support 211 and requires each state to identify a lead agency for receipt and distribution of those federal funds, should the bill pass.

There are three reporting requirements in the bill which should provide timely fiscal information. These reporting requirements are: December 15, 2007, each 211 provider that receives funding under this subsection is required to report fund expenditures; January 1, 2008, the Florida Alliance of Information & Referral Services is required to provide a statewide report to the agency, which includes the individual reports and aggregate data provided by the 211 providers; and February 15, 2007, the Agency for Health Care Administration is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the expenditure of the funds appropriated to it for 211 purposes.

Background

On July 21, 2000, the Federal Communications Commission (FCC) adopted Order No. FCC 00-256, in CC Docket No. 92-105, relating to the 211 dialing code. The FCC reserved the 211 dialing code for community information and referral services. The 211 code is intended to be an easy-to-remember and universally-recognizable number that would enable a critical connection between individuals and families in need and the appropriate community-based organizations and government agencies. Dialing 211 helps, for example, the elderly, the disabled, those who do not speak English, those who are having personal crises, the illiterate, or those who are new to communities, by providing referrals to and information about health and human services organizations and agencies.

In 2002, the Legislature established the Florida Health and Human Services Access Act (Act) and authorized the Agency for Health Care Administration (agency) to develop a comprehensive, automated system for access to health care services. The system, known as the Florida 211 Network

was implemented as a pilot project and was intended to serve as a single entry point for information and referrals to publicly funded health and human service programs.¹ The 2002 legislation further authorized the planning, development and implementation of a statewide Florida 211 network to serve as a single entry point for information and referrals to publicly funded health and human service programs.²

Due to loss of funding, the pilot project, scheduled to be completed on December 31, 2003, was terminated on June 30, 2003. The agency was required to develop criteria that organizations must satisfy to become certified Florida 211 Network providers.³ Previously, any organization could obtain a 211 number without meeting specific standards or qualifications.

The agency developed the Florida 211 Network Provider Certification Rule (Chapter 59G-11, Florida Administrative Code), adopted April 28, 2003, to ensure, through certification, that quality, consistent information and services are provided to persons seeking health and human services. Prior to receiving certification, candidates must be able to effectively demonstrate that their organization works collaboratively and have written agreements with specialized information and referral systems, including crisis centers, child care resource and referral programs, elder help-lines, homeless coalitions, designated emergency management systems, 911 and 311 systems.⁴

According to the agency, as of December 2006, 16 organizations have been certified as Florida 211 Network Providers. According to the United Way of Florida, 211 is currently available to more than 15.5 million people in 50 counties, or about 87 percent of the state's population. Florida 211 Network providers can receive funding from the United Way, county and local city governments, nonprofit agencies, corporations, grants, or private donations.

C. SECTION DIRECTORY:

Section 1. Amends s. 408.918, F.S., relating to legislative intent; providing for the expansion of the Florida 211 Network; and creating reporting requirements.

Section 2. Provides an appropriation.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides that the Agency for Health Care Administration will distribute the \$5 million from General Revenue to the Florida Alliance of Information and Referral Services to implement the statewide expansion of the Florida 211 Network and to enhance the existing 211 provider organizations. The bill also provides that any funds that are not encumbered for the 2007-08 fiscal year shall revert on June 30, 2008, and are reappropriated for the for the 2008-09 fiscal year for the same purpose.

¹ Chapter 2002-223, LOF; Passed as SB 1276

² Section 408.918, F.S.

³ Section 418.918(2), F.S.

⁴ See the Agency for Health Care Administration Bill Analysis, February 12, 2007, on file with the Committee

The agency oversees Florida's 211 Network Provider System, including state certification of all 211 providers and because a substantial number of calls received by Florida's 211 Network Providers relate to Medicaid services, the program is located in the agency's Division of Medicaid. To adequately administer the anticipated increased workload associated with the expansion of the 211 Network services, the agency requests three full-time equivalent positions.

	<u>2007-08</u>	<u>2008-09</u>
AHCA (3 FTE)	\$ 222,895*	\$ 212,495
211 Network Operations	\$5,000,000	\$ _____0
Total General Revenue Expenditures	\$5,222,895	\$ 212,495

*Fiscal Year 2007-08 includes \$10,400 in non-recurring funding for equipment for the new staff positions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments could be impacted if new 211 Network Providers use city or county funds to match state funds. 211 Network Providers are required to match \$1 for each state dollar provided to the provider.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill expands the Florida 211 network system, which provides an easy-to-remember and universally-recognizable number that would enable a critical connection between individuals and families in need of services from community-based organizations or government agencies.

D. FISCAL COMMENTS:

The following chart details the \$5 million appropriation by specific areas:⁵

ELEMENT	PERCENTAGE	DOLLAR AMOUNT	CRITERIA
Improved & increased access to health and human service info statewide Hurricane/Disaster Preparedness & Response Statewide cell phone access Personnel ADA Compliance Marketing & Equipment	75%	3,740,000	Cell phone access statewide; Disaster/Emergency call routing; Additional personnel required for disaster response and increased call volume resulting from cell phone access and increased marketing; ADA Compliance statewide; Marketing; Equipment (state and local); (Shared proportionally according to the July 1, 2004 Census Estimate for the general population in the 211 center service area)

⁵ Information provided by United Way of Florida, Inc., Health Innovation committee meeting, February 20, 2007, record on file with the Committee.

Base Amount	20%	1,005,000	\$15,000 to support 2-1-1 in all 67 counties
Start Ups	2%	105,000	5 start-ups @ \$35,000 each; hardware, software, database creation (\$35,000 for each 2-1-1 started after May 31, 2006).
Accreditation	3%	150,000	\$15,000 for 2-1-1 providers AIRS accredited on or before May 31, 2006
TOTAL	100%	\$5,000,000	

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the Florida 211 Network; amending s.
3 408.918, F.S.; designating the Agency for Health Care
4 Administration as the lead entity for purposes of
5 receiving and distributing federal funds; requiring the
6 Florida 211 Network to provide services in each county and
7 to coordinate services with county emergency management
8 agencies during disasters; providing requirements for
9 distribution of state funds appropriated for such
10 purposes; requiring local matching funds; requiring
11 expenditure reports to the Florida Alliance of Information
12 and Referral Services, the Agency for Health Care
13 Administration, the Governor, and the Legislature;
14 defining the term "Florida 211 Network provider";
15 providing an appropriation; providing an effective date.

16
17 WHEREAS, the 2002 Legislature created the "Florida Health
18 and Human Services Access Act" in sections 408.911-408.918,
19 Florida Statutes, and

20 WHEREAS, the act "authorizes the planning, development,
21 and, subject to appropriations, the implementation of a
22 statewide Florida 211 Network, which shall serve as the single
23 point of coordination for information and referral for health
24 and human services" in section 408.918(1), Florida Statutes, and

25 WHEREAS, in order to participate in the Florida 211
26 Network, a 211 provider must be certified by the Agency for
27 Health Care Administration under section 408.918(2), Florida
28 Statutes, and

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WHEREAS, 211 is the 911 telephone number for nonemergency health and human services and for crisis response information, is available in 42 counties, and represents 14.7 million people, or 82.5 percent of the state's population, and

WHEREAS, the Florida Alliance of Information and Referral Services is the statewide membership organization in which all 211 providers participate and which has drafted the Florida 211 Network business plan identifying the most efficient processes by which the Florida 211 Network should expand statewide, and

WHEREAS, 211 providers have compiled information on thousands of human services programs across the state, and

WHEREAS, 211 call centers make it easier for more than 14 million Floridians to get the information they need to keep them out of emergency rooms, off government assistance, out of "deep-end" social services programs, safe from abuse, and in stable housing, and

WHEREAS, 211 call centers also help people find job training and assistance, elder care and child care, and before-school and after-school care that allow them to stay employed, and

WHEREAS, during the 2004 and 2005 hurricane seasons, 211 call centers provided critically needed support to many emergency operations centers, provided information to Floridians impacted by hurricanes, were instrumental in identifying unmet and emerging needs, and helped mobilize and manage volunteers, and

WHEREAS, 211 call centers will continue to be a critical part of recovery efforts, providing a connection to help for

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people whose lives have been dramatically affected by the 2005 hurricanes, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 408.918, Florida Statutes, is amended to read:

408.918 Florida 211 Network; uniform certification requirements.--

(1) The Legislature finds that a statewide Florida 211 Network would be of great benefit to Floridians, particularly in times of disaster, and authorizes the planning, development, and, subject to appropriations, the implementation of a statewide Florida 211 Network, which shall serve as the single point of coordination for information and referral for health and human services. The objectives for establishing the Florida 211 Network shall be to:

(a) Provide comprehensive and cost-effective access to health and human services information.

(b) Improve access to accurate information by simplifying and enhancing state and local health and human services information and referral systems and by fostering collaboration among information and referral systems, including those serving persons with disabilities and special health care needs.

(c) Electronically connect local information and referral systems to each other, to service providers, and to consumers of information and referral services.

(d) Establish and promote standards for data collection

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and for distributing information among state and local organizations.

(e) Promote the use of a common dialing access code and the visibility and public awareness of the availability of information and referral services.

(f) Provide a management and administrative structure to support the Florida 211 Network and establish technical assistance, training, and support programs for information and referral-service programs.

(g) Test methods for integrating information and referral services with local and state health and human services programs and for consolidating and streamlining eligibility and case management processes.

(h) Provide access to standardized, comprehensive data to assist in identifying gaps and needs in health and human services programs.

(i) Provide a unified systems plan with a developed platform, taxonomy, and standards for data management and access.

(2) In order to participate in the Florida 211 Network, a 211 provider must be certified by the Agency for Health Care Administration. The agency shall develop criteria for certification, as recommended by the Florida Alliance of Information and Referral Services, and shall adopt the criteria as administrative rules.

(a) If any provider of information and referral services or other entity leases a 211 number from a local exchange company and is not certified by the agency, the agency shall,

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after consultation with the local exchange company and the Public Service Commission, request that the Federal Communications Commission direct the local exchange company to revoke the use of the 211 number.

(b) The agency shall seek the assistance and guidance of the Public Service Commission and the Federal Communications Commission in resolving any disputes arising over jurisdiction related to 211 numbers.

(c) The agency is designated the lead entity for purposes of receiving and distributing funds that may become available from the Federal Government to support the Florida 211 Network.

(3) (a) The Florida 211 Network shall be expanded statewide to provide services in each county. Each 211 provider shall coordinate with each county emergency management agency in the 211 service area to determine how the Florida 211 Network may be used in the event of a disaster, including how a 211 provider will respond with information that is essential to assisting individuals during a natural disaster.

(b) To implement the Florida 211 Network business plan, the agency shall distribute to the Florida Alliance of Information and Referral Services funds appropriated to the agency to expand the Florida 211 Network statewide and to enhance operations of existing 211 providers. The funds distributed to the Florida Alliance of Information and Referral Services shall be made available to 211 providers on a matching basis, with each 211 provider required to provide \$1 for each \$1 provided to that 211 provider from state funds appropriated for that purpose. At a minimum, the funds shall be used to achieve

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statewide 211 coverage.

(c)1. No later than December 15, 2007, each 211 provider that receives funding under this subsection shall report to the Florida Alliance of Information and Referral Services the expenditure of the state funds on a form developed by the agency.

2. No later than January 1, 2008, the Florida Alliance of Information and Referral Services shall provide a statewide report to the agency which includes the individual reports and aggregated data provided by the 211 providers.

3. No later than February 15, 2008, the agency shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing expenditure of the funds appropriated to it for the purposes of this subsection.

(4) As used in this section, the term "Florida 211 Network provider" or "211 provider" means an information and referral organization the primary purpose of which is to maintain information about human service resources in the community, supply descriptive information about the agencies or organizations that offer such services, and assist consumers in accessing appropriate providers of such services.

Section 2. The sum of \$5 million is appropriated for the 2007-2008 fiscal year from nonrecurring general revenue to the Agency for Health Care Administration to fund the statewide expansion of the Florida 211 Network to all counties and to enhance the operations of existing 211 providers under s. 408.918, Florida Statutes, as amended by this act. Any funds

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169 that are not encumbered for the 2007-2008 fiscal year shall
170 revert on June 30, 2008, and may be reappropriated in the 2008-
171 2009 fiscal year General Appropriations Act for the same
172 purposes.

173 Section 3. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 283

COUNCIL/COMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Council/Committee hearing bill: Health Innovation
Representative(s) Porth offered the following:

Amendment

Remove line(s) 162 and insert:

accessing appropriate providers.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. HB 283

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Health Innovation

2 Representative(s) Porth offered the following:

3
4 **Amendment**

5 Between lines 172 and 173 insert:

6 Section 3. The sums of \$193,516 in recurring general
7 revenue and \$7,830 in nonrecurring general revenue are
8 appropriated to the Agency for Health Care Administration and
9 three full-time equivalent positions are authorized for the
10 2007-2008 fiscal year for the purpose of implementing s.
11 408.918, F.S.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. HB 283

COUNCIL/COMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

1 Council/Committee hearing bill: Health Innovation

2 Representative(s) Porth offered the following:

3
4 **Amendment**

5 Remove line(s) 173 and insert:

6
7 Section 3. This act shall take effect July 1, 2007 only if
8 a specific appropriation to the Agency for Health Care
9 Administration to fund s. 408.918, F.S., is made in the General
10 Appropriations Act for fiscal year 2007-2008.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 347 Nursing Home Facilities
SPONSOR(S): Gelber and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Innovation		Ciccone <i>jc</i>	Calamas <i>cc</i>
2) Healthcare Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 347 provides legislative intent to encourage nursing homes to have emergency electrical power system capacity to remain fully operational during and after an emergency and to provide care to residents who are evacuated from other nursing homes.

The bill specifies that the Agency for Health Care Administration (the Agency) implement a 2-year pilot program to reimburse eligible nursing homes for the cost to install an electrical generator connection in the facility. The bill also provides for reimbursement of up to one-half the cost of an electrical generator service contract up to \$7,500 per year, to participating facilities. The Agency is directed to develop a reimbursement plan to maximize federal funding to expand the pilot program.

The total cost to provide reimbursements is estimated to be \$5.0 million, assuming participation by 100 percent of the eligible facilities. The Agency will require one administrative position to implement this pilot program. The bill will require an annual General Revenue appropriation of approximately \$2.4 million. The reimbursement to nursing homes by the Agency however, is subject to an appropriation.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – The bill provides increased safety options to individuals and families who either reside in or have family members residing in certain nursing home facilities.

Maintain public security – The bill provides increased health, safety and physical security of nursing home residents who reside in certain facilities before and during an emergency.

B. EFFECT OF PROPOSED CHANGES:

The bill creates s. 400.0627, F.S., providing legislative intent to encourage nursing home facilities to have an emergency electrical power system to allow these facilities to remain fully operational during and after an emergency and to provide care to residents evacuated from other nursing homes.

The Agency for Health Care Administration (Agency) is required to implement a 2-year pilot program to reimburse nursing homes based on certain criteria. Participation in the pilot program is voluntary. Eligible facilities would receive state reimbursement based on available funds for the installation cost of a quick connect electrical service entry system allowing a temporary generator connection. Nursing homes that meet eligibility criteria would be reimbursed for up to one-half the cost of a generator services contract, not to exceed \$7,500 per year for each year of the pilot program.

The combined effect of installing the quick connect electrical power system and having the generator services contract would be to enable eligible nursing homes, despite utility power outages, to remain fully operational during and after an emergency and provide care to residents evacuated from other nursing facilities.

To be eligible for reimbursement, a nursing home facility must meet the following criteria:

- Be located in Bay, Broward, Collier, Miami-Dade, Escambia, Monroe, Okaloosa, Palm Beach, Santa Rosa, or Walton County.
- Not be in the hurricane evacuation zone in the county.
- Not have been cited for a class I deficiency within the 30 months preceding the commencement of the pilot project implementation.
- Have the capacity, as determined by the Agency, to receive transferred residents that are evacuated and agree to receive those transferred residents.
- Have a contract with a company that is able to supply an electrical generator.

The pilot program is funded by state General Revenue. The bill directs the Agency to develop a reimbursement plan to draw down federal funds in order to expand the pilot program to other areas of the state. The plan is to be presented to the President of the Senate and the Speaker of the House of Representatives by December 31, 2007.

BACKGROUND

Hurricane Evacuation Zones

Hurricane evacuation zones are predetermined geographic areas that are likely to experience destruction or severe damage from storm surges, waves, erosion or flooding.¹ Depending on the track

¹ According to NQAA, storm surge maps reflect the worst case hurricane storm surge inundation (including astronomical high tide), regardless of the point of where the center of the hurricane (or tropical storm) makes landfall. No single hurricane will necessarily cause all of the flooding represented on evacuation maps. The data reflect only still-water saltwater flooding and do not take into account the effects of pounding waves that ride on top of the storm surge in locations exposed to wave action. Evacuation maps do not

of the storm, the greater the intensity of a storm (tropical storm to Category 5 hurricane) the greater the geographic area that will experience these conditions and, therefore, need to be evacuated. The closer the nursing home is to the coast, the more likely that a nursing home will be located in an evacuation zone.

According to the Agency, there are 677 licensed nursing homes in Florida representing approximately 83,000 beds. During the 2005 and 2006 hurricane seasons 23 nursing homes were evacuated representing approximately 2,900 patients being displaced. A total of 241 nursing homes lost power and switched to generators during the 2005 and 2006 hurricane seasons.²

The Agency estimates approximately 122 nursing facilities are not located in county hurricane evacuation zones, and therefore, would be eligible to participate in the pilot program.³ This represents approximately 15,000 nursing home beds.

Nursing Home Licensure Standards

Section 400.23, F.S., requires the Agency to conduct annual surveys at all nursing homes to evaluate and determine the degree of compliance by each licensee with the established standards adopted in rules. The Agency bases its evaluation on the most recent inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections.

Findings of deficient practice are classified according to the nature and the scope of the deficiency. There are four classes of deficiencies:

- A class I deficiency is a deficiency in which immediate corrective action is necessary because the facility's noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility.
- A class II deficiency is a deficiency that has compromised a resident's ability to maintain or accomplish his or her highest practicable physical, mental, and psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.
- A class III deficiency is a deficiency that will result in no more than minimal physical, mental, or psychosocial discomfort to the resident or has the potential to compromise the resident's ability to maintain or accomplish his or her highest practical physical, mental, or psychosocial wellbeing, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.
- A class IV deficiency is a deficiency that will result in no more than a minor negative impact on the resident.

The classification of a deficiency affects the licensure status of the facility. A conditional license is issued if a facility has one or more class I or class II deficiencies, or class III deficiencies not corrected within the time established by the Agency. In addition, a facility that is cited for a class I deficiency, two or more class II deficiencies arising from separate surveys or investigations within a 60-day period, or has had three or more substantiated complaints within a 6-month period, each resulting in at least 1 class I or class II deficiency, is placed on a 6-month survey cycle for the next 2-year period.

According to the Agency, data from the most recent 30-month period indicates that 47 facilities have received a class I deficiency. During the same time period, 149 nursing homes were included in an edition of the "Nursing Home Guide Watch List." In addition, 40 facilities are currently placed on a 6-month survey cycle.

show areas that may be flooded by excessive rainfall—they only depict flooding that would occur as a result of the ocean level rising as well as estuaries and rivers that can be affected by hurricane storm surge.

² Agency for Health Care Administration, Bureau of Long Term Care staff input.

³ Agency for Health Care Administration 2007 Bill Analysis and Economic Impact statement, February 14, 2007, on file with the Committee..

Evacuation and Transfer of Nursing Home Residents

Section 400.23(2)(g), F.S., requires the Agency to develop rules after consultation with the Department of Community Affairs that require each nursing home to develop a comprehensive emergency management plan (CEMP). At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; post disaster activities, including emergency power, food, and water; post disaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency must ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elder Affairs, the Department of Health, and the Agency for Health Care Administration and the Department of Community Affairs. The local emergency management agency must complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

Rule 59A-4.126, F.A.C., incorporates by reference a publication (Agency 3110-6006, March 1994) that lists the minimum criteria for a nursing home's CEMP. The CEMP must state the procedures to ensure that emergency power, whether natural gas or diesel, is supplied to the nursing home. If the fuel supply is natural gas, the plan must identify alternate means should loss of power occur that would affect the natural gas system. The plan must state the capacity of the emergency fuel system.

Requirements for Nursing Home Licensure -- Essential Electrical System

Since July 1982, all nursing home facilities licensed under part II of chapter 400, F.S., have been required by rule to have an onsite essential electrical system (EES) with an onsite fuel supply of up to 64 hours.⁴ The design, installation, operation, and maintenance of this EES are reviewed by the Agency.

The EES supplies electrical service to the three main electrical branches, including the Life Safety branch, the Critical Branch, and the Equipment Branch within 10 seconds of normal service interruption. As required by the National Fire Protection Association (NFPA) standards, these emergency electrical branches provide emergency electrical service to specified electrical components of the facility such as the fire alarm system, the nurse call system, the emergency egress lighting system, the exit lighting system, the magnetic door locking system, and selected critical convenience receptacles and equipment in the facility.

Since 1996, all new nursing home facilities and new additions to these facilities have been required to have an EES that supplies electrical power to all ventilating fans, ice making equipment, refrigeration equipment, and selected heating, ventilation, and air conditioning equipment as determined by the facility, for a period up to 72 hours of continuous service at actual load capacity of the generator.

The EES is not required to provide electrical service to the heating, ventilation, and air conditioning (HVAC) equipment of the facility nor to the general lighting or other electrical items not specifically required by the National Fire Protection Association codes and standards.

C. SECTION DIRECTORY:

Section 1. Creates s. 400.0627, F.S., providing legislative intent; requiring the Agency to establish a two-year pilot program to provide state financial assistance, to the extent that funds are appropriated, to eligible nursing home facilities to upgrade their emergency electrical power system capacity; and requiring the Agency to prepare a reimbursement plan to expand the pilot program.

⁴ FAC 59A-4.133 Of the 669 existing licensed nursing home facilities, there are 30 facilities constructed prior to 1982 that do not have an existing generator system. These facilities house only residents who do not require any life support systems, and as such, these facilities are in compliance with all state and federal codes and standards through the use of a battery supplied emergency electrical system that supplies emergency power to the life safety components of the facility as required by NFPA 99 for 1-1/2 hours duration. These components include the fire alarm, nurse call, emergency egress lighting, exit lighting, and locking systems.

Section 2. Provides that the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Agency advises that each facility choosing to participate in the pilot will be required to pay a \$2,000 plan review fee per current statutes to review the facility electrical system changes necessitated by the quick connect.⁵ Assuming a participation rate of 100 percent of 122 facilities, those fees would total \$244,000 over the two year period.

	<u>2007-08</u>	<u>2008-09</u>
Plan Review Fees	\$122,000	\$122,000
7.5% GR Service Charge	<u>(\$ 9,150)</u>	<u>(\$ 9,150)</u>
Net to Health Care Trust Fund	\$112,850	\$112,850
General Revenue Fund		
7.5 % GR Service Charge	<u>\$ 9,150</u>	<u>\$ 9,150</u>
Total Revenues	\$122,000	\$122,000

2. Expenditures:

Information provided by the Agency indicates that the cost to implement the pilot would be approximately \$5.0 million over the two-year period, assuming participation by 100 percent of 122 facilities. In addition, the Agency advises that it will require one additional staff position to process and review the electrical system plans and requests for reimbursements.

	<u>2007-08</u>	<u>2008-09</u>
Agency (1 FTE)	\$ 62,823*	\$ 56,823
Permanent Electrical Service Entry	\$1,525,000	\$1,525,000
(122 facilities @\$25,000 per facility)		
Contracted Services (122 facilities@\$7,500)	<u>\$ 915,000</u>	<u>\$ 915,000</u>
Total Expenditures	\$2,502,823	\$2,496,823

*Fiscal Year 2007-08 includes \$6,000 in non-recurring funding for equipment for the new staff position.

General Revenue Fund	\$2,389,973	\$2,383,973
Health Care Trust Fund	\$ 112,850	\$ 112,850

⁵ Agency for Health Care Administration 2007 Bill Analysis and Economic Impact statement, February 14, 2007, on file with the Committee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If implemented, the bill should have a positive effect on businesses that develop, sell, rent, install or provide maintenance for large electrical generators.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides that the Agency for Health Care Administration may adopt rules to administer the pilot program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to nursing home facilities; creating s. 400.0627, F.S.; providing legislative intent; requiring the Agency for Health Care Administration to implement a pilot program to increase the emergency electrical power capacity of nursing home facilities; providing criteria for participation in the program; providing conditions for reimbursement of participating facilities; permitting inspections of certain facilities by the agency; requiring facilities to comply with current codes and standards when modifying emergency electrical power systems; authorizing the agency to adopt rules; requiring the agency to prepare a reimbursement plan; requiring the plan to be presented to the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 400.0627, Florida Statutes, is created to read:

400.0627 Emergency electrical power system capacity.--

(1) It is the intent of the Legislature that each nursing home facility in this state be encouraged to have an emergency electrical power system capacity that is sufficient to remain fully operational during and after an emergency in order to maintain the safety and health of the residents of the nursing home facility and, if necessary, to provide care to residents evacuated from other nursing home facilities.

(2) By July 1, 2007, the Agency for Health Care

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Administration shall commence implementation of a 2-year pilot program to provide the capability for increasing the capacity of emergency electrical power systems of nursing home facilities.

To participate in the pilot program, a nursing home facility shall:

(a) Be located in Bay County, Broward County, Collier County, Miami-Dade County, Escambia County, Monroe County, Okaloosa County, Palm Beach County, Santa Rosa County, or Walton County.

(b) Not be located within a hurricane evacuation zone.

(c) Not have been cited for a class I deficiency within the 30 months preceding the commencement date of implementation of the pilot program.

(d) Be capable of accepting and agree to accept at least 30 residents who are transferred from other nursing home facilities pursuant to applicable life safety and firesafety laws as determined by the agency. During any such evacuation, the facility from which the residents are transferred shall provide the receiving facility with the staff required to care for the transferred residents.

(e) Have a contract with a company that is able to supply an electrical generator when needed.

(3) (a) A nursing home facility shall notify the agency if it seeks to participate in the pilot program. If a facility providing such a notice meets the criteria in subsection (2) and funds are available as specified in paragraph (b), the agency shall reimburse the facility for up to one-half the cost of the contract described in paragraph (2) (e) to secure an electrical

57 generator, which reimbursement shall not exceed \$7,500 for each
58 year of the 2-year pilot program. The agency shall also
59 reimburse the facility for the cost incurred to install a
60 permanent, predesigned electrical service entry that allows a
61 quick connection to a temporary electrical generator. The
62 connection shall be installed inside a permanent metal enclosure
63 that is rated as suitable for the purpose of providing such an
64 entry, may be located on the exterior of the building, and shall
65 be adequate to allow the operation of the facility under normal
66 conditions. Before any such reimbursement, the facility shall
67 provide the agency with documentation that the installation is
68 complete and the electrical work associated with the
69 installation was performed by a certified electrical contractor.

70 (b) Reimbursement to a facility under paragraph (a) is
71 available to the extent that funds are appropriated for each of
72 the 2 years of the pilot program. Funds shall be provided to
73 eligible facilities on a first-come, first-served basis.

74 (c) Subject to appropriation, the agency shall reimburse
75 the facility for the cost of the predesigned electrical service
76 entry that allows a quick connection to a temporary electrical
77 generator based on the lowest of three bids secured by the
78 facility. Each facility shall submit copies of the three bids to
79 the agency with its request for plan approval.

80 (4) A nursing home facility that participates and is
81 reimbursed for an installation under the pilot program shall
82 ensure the proper safekeeping and maintenance of the
83 installation and allow the agency access as needed to inspect
84 the installation.

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85 (5) This section does not require a nursing home facility
86 to participate in the pilot program or to modify the capacity of
87 its existing emergency electrical power system. However, if the
88 existing emergency electrical power system of a nursing home
89 facility is modified as part of an installation for which
90 reimbursement is provided under subsection (3), such system
91 shall comply with all current codes and standards.

92 (6) The agency may adopt rules pursuant to ss. 120.536(1)
93 and 120.54 to implement the provisions of this section
94 conferring duties upon it.

95 (7) The agency is directed to develop a reimbursement plan
96 to maximize federal funding in order to expand the pilot
97 program. The plan shall include criteria for expansion to other
98 counties and shall take into account the experiences of the
99 participants in the pilot program. The plan shall be presented
100 to the President of the Senate and the Speaker of the House of
101 Representatives by December 31, 2007.

102 Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 347

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health Innovation

2 Representative(s) Gelber offered the following:

3
4 **Amendment**

5 Remove line(s) 34-37 and insert:

6 (a) Be located in Pasco County, Broward County, Miami-Dade
7 County, Escambia County, Okaloosa County, Palm Beach County, or
8 Santa Rosa County.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. HB 347

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health Innovation
2 Representative(s) Gelber offered the following:

3
4 **Amendment**

5 Remove line(s) 69 and insert:
6 installation was performed by a certified electrical contractor.
7 The agency shall consider the most cost effective use of state
8 dollars to provide electrical service to nursing homes prior to
9 reimbursement.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. HB 347

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Health Innovation
2 Representative(s) Gelber offered the following:

3
4 **Amendment**

5 Remove line(s) 101 and insert:

6
7 Representatives by December 31, 2008.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

Bill No. HB 347

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Council/Committee hearing bill: Health Innovation

Representative(s) Gelber offered the following:

Amendment

Remove line(s) 102 and insert:

Section 2. This act shall take effect July 1, 2007 only if a specific appropriation to the Agency for Health Care Administration to fund s. 400.0627, F.S., is made in the General Appropriations Act for fiscal year 2007-2008.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 455 Organ and Tissue Donation
SPONSOR(S): Cretul and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1350

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Innovation</u>		Cicccone <i>GC</i>	Calamas <i>CEC</i>
2) <u>Healthcare Council</u>			
3) <u>Policy & Budget Council</u>			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 455 provides legislative intent and makes several statutory revisions to encourage organ and tissue donation through enhanced education and donor registration by coordinating services among the Florida Coalition on Donation, Inc., a not-for-profit entity (Coalition), the Department of Highway Safety and Motor Vehicles (DHSMV) and the Agency for Health Care Administration (the Agency).

The bill transfers the maintenance of the organ and tissue donor registry from the Agency to the Coalition and provides that the cost to maintain the registry is paid for by funds from a voluntary contribution of \$1 per driver's license applicant. The bill provides specific duties for the Coalition including operating and maintaining the donor registry and developing and implementing with the DHSMV, a coordinated program to allow individuals to make anatomical gifts. The bill establishes that certain meetings on the Coalition would not be open to the public.

The bill clarifies the criteria under which persons may make anatomical gifts, and provides technical revisions to the Uniform Donor Card. The bill provides a mechanism to coordinate the transfer of organ donation information between the DHSMV and the Coalition and stipulates that the DHSMV adopt rules to provide for verification of a donor's identify. The bill requires that the DHSMV and the Coalition share administrative responsibilities including submitting an annual report to the Legislature regarding donor registry and demographic information. The bill provides that the Agency continue to maintain its oversight and certification responsibilities regarding organ procurement organizations and to assess fees for this purpose.

The bill requires that the Department of Motor Vehicles continue to collect the voluntary contribution of \$1 per driver's license application and renewal fee. The bill renames the Florida Organ and Tissue Donor Education and Procurement Trust Fund as the Florida Organ and Tissue Procurement Trust Fund and provides that the Department of Motor Vehicles continue to collect a voluntary contribution of \$1 per driver's license applicant, which is distributed to the Coalition to enhance donor education and to maintain the organ and tissue donor registry.

The bill provides for an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides limited government – this bill reduces the Agency for Health Care Administration's responsibilities to maintain the Organ and Tissue Donor Registry by transferring this function to the private, not-for-profit Florida Coalition on Donation, Inc.

Empower families – this bill should provide greater opportunity for families, through enhanced organ donor education and registry information and accessibility, to make a life-saving gift after death.

B. EFFECT OF PROPOSED CHANGES:

The bill provides legislative intent and makes several statutory changes to create a more effective organ and tissue donation registry, continue donor provider oversight and certification, and distribute donor information and driver's license contributions to enhance donor education and registry information. The bill privatizes the maintenance of Florida's organ and tissue donor registry by transferring the registry from the Agency for Health Care Administration (Agency) to the Coalition for Donation (Coalition). The bill makes no changes to the Agency's donor certification program and requires that the Agency continue to maintain its oversight of organ procurement agencies. The bill requires that the Department of Highway Safety and Motor Vehicles coordinate donor application and registry information with the Coalition and to disburse monies collected from driver's license fee contributions to the Coalition for the purpose of providing donor education and registry maintenance.

Background:

Florida Law

In 1969, the Legislature enacted legislation modeled after the national Uniform Anatomical Gift Act. Part V of ch. 765, F.S., establishing a process by which individuals, their families, or others may donate organs and tissue. One of the underlying expressions of legislative intent is to encourage the development of reconstructive medicine and surgery and aid medical research by regulating the gift of the body, or parts of the body, after the death of a donor.

Section 765.512, F.S., provides guidelines by which any person who may make a will may give all or part of his or her body for the purpose of transplantation or for medical research. The statute provides that an adult donor's anatomical gift unless revoked by the donor, is irrevocable. The consent or concurrence of another person prior to the procurement of the organ or tissue is not required. However, it is common practice for those entities procuring organs or tissues to acquiesce to the wishes of the family or guardian even if it modifies or overrides a decedent's expressed wish to make an anatomical gift. The donee is prohibited from accepting the gift if the donee has actual notice of contrary indications by the decedent, or if the spouse made the gift, an objection by an adult son or daughter or a gift by a member of a class is opposed by a member of the same or a prior class.¹

In the absence of a written document to make an anatomical gift, and provided there is no evidence to the contrary of the deceased donor's wishes, any family member from the specified classes of relatives or persons may make an anatomical gift of a decedent's body or part thereof, unless there is opposition from a member of the same or higher specified class of relatives. Persons who may donate all or part of a decedent's body include the spouse, an adult son or daughter, either parent, an adult brother or sister, a grandparent, the guardian of the person at the time of death, or a representative ad litem appointed by the court.²

¹ See Section 765.512(4), F. S.

² See Section 765.512(3), F.S.

A person may make an anatomical gift by a will or other signed document including a designation made during the application or renewal for a state-issued driver's license. If the donation is included in the donor's will, the donation becomes effective upon the donor's death without waiting for probate. The document must be executed in the presence of two witnesses.³

An amendment or revocation of an anatomical gift can be made through:

- A signed statement delivered to the donee;
- An oral statement made in the presence of two persons and communicated to the donor's family or attorney or to the donee;
- An oral statement made during a terminal illness or injury to an attending physician; or
- A signed document found on the donor's person or in the donor's effects.⁴

The Florida Coalition on Donation

The Florida Coalition on Donation (Coalition) was founded in 1997, as a non-profit organization and is a member of the national Coalition on Donation. The Coalition is an alliance of organ, tissue and eye donor programs in Florida and individuals and organizations that hold a common interest in life-saving and life-enhancing donation and transplantation. The overriding mission of the Coalition is to inspire all people to donate life through organ and tissue donation.

The primary reason for forming the Florida Coalition was to create an entity that could coordinate and handle large organ donor informational programs, including implementing national organ donor campaigns. The Coalition uses a variety of outreach efforts, including Get Carded, a college based campaign; Workplace Partnership For Life, an employer driven program; and billboard and movie theatre advertisements.

Organ and Tissue Donation Process

Organ donation is the process of surgically removing an organ or tissue from one person (the donor) and placing it into another person (the recipient). Transplantation is necessary because the recipient's organ has failed or has been damaged by disease or injury. Organ transplantation is one of the great advances in modern medicine. Unfortunately, the need for organ donors is much greater than the number of people who actually donate. Every day in the United States 17 people die waiting for an organ and more than 80,000 men, women, and children await life-saving organ transplants.

Organs and tissues that can be transplanted include:

- Liver
- Kidney
- Pancreas
- Heart
- Lung
- Intestine
- Lung
- Cornea
- Middle Ear
- Skin
- Bone
- Bone Marrow
- Heart valves
- Connective tissue

³ See Section 765.514, F.S.

⁴ See Section 756.516, F.S.

When an individual dies they are evaluated for donor suitability given their current and past medical history and their age. The Organ Procurement Organization (OPO) determines medical suitability for donation.⁵

Organ Procurement Organizations (OPOs)

The role of the organ procurement organization (OPO) is very important in the matching process. OPOs become involved when a patient is identified as brain dead and therefore becomes a potential donor. The OPO coordinates the logistics between the organ donor's family, the donor organs, the transplant center(s), and the potential transplant candidate.

OPOs provide organ recovery services to hospitals located within designated geographical areas of the U.S. OPOs are non-profit organizations and, like transplant hospitals, are members of the OPTN. Each OPO has its own board of directors and a medical director on staff who is usually a transplant surgeon or physician.

OPOs employ highly trained professionals called procurement coordinators who carry out the organization's mission. Once contacted by the hospital with a potential donor, OPO staff:

- conduct a thorough medical and social history of the potential donor to help determine the suitability of organs for transplantation
- work with hospital staff to offer the option of donation to the donor family
- ensure that the decision to donate is based on informed consent
- manage the clinical care of the donor once consent for donation is finalized
- enter the donor information into the UNOS computer to find a match for the donated organs
- coordinate the organ recovery process with the surgical teams and provide follow-up information to the donor family and involved hospital staff regarding the outcome of the donations

From the moment of consent for donation to the release of the donor's body to the morgue, all costs associated with the organ donation process are billed directly to the OPO.⁶

Donor Procurement and Registry Program

The Agency for Health Care Administration (Agency) oversees Florida's organ procurement program. The Agency is required to certify OPOs, provide donor education, and maintain an organ and tissue donor registry⁷ in cooperation with the Department of Highway Safety and Motor Vehicles (DHSMV). The Agency provides DHSMV with donor registration forms who, in turn forwards the executed forms to the Agency. The Agency also receives executed forms from other sources including community outreach or college campus efforts. Upon receipt, the documents are individually scanned, indexed and electronically linked with a corresponding donor record in the Organ and Tissue Donor registry.⁸ There are currently over 3.2 million registry participants.⁹ According to the Agency, the registry information process has been maintained since 1998 with equipment that is considered obsolete by today's data system standards. Many of the handwritten documents are illegible and can never be indexed and linked to a data record in the registry. Further, the scanning, indexing and linking process began several years after the registry was implemented, thus many thousands of records do not have corresponding images.

⁵ See www.clevelandclinic.org

⁶ Cite. www.optn.org/transplantation

⁷ See s. 765-510-546, F.S.

⁸ Cite. www.fdhc.state.fl.us/MCHA/HealthFacilityRegulation/Organ/Donors

⁹ See the Agency for Health Care Administration Bill Analysis, February 19, 2007, on file with the Committee.

National Statistics

As of February 16, 2007, there were 95,146 candidates on the organ transplantation waiting list in the United States. Of the total number of candidates on the waiting list, 1,948 are children. From January through November 2006, 26,691 transplants were performed using organs from 13,582 donors.¹⁰

Florida Statistics

As of February 16, 2007, there were 3,300 candidates on the organ transplantation waiting list in Florida. Of the total number of candidates on the waiting list, 68 are children. From January through November 2006, 1,663 transplants were performed using organs provided from donors.¹¹

C. SECTION DIRECTORY:

Section 1. Provides legislative intent relating to organ and tissue donations and use of funds.

Section 2. Creates s. 765.511(4), F.S., relating to the definition of the Florida Coalition on Donation; rennumbers subsequent subsections.

Section 3. Amends s.765.512 (2) and (3), F.S., relating to anatomical gifts and the organ and tissue donor registry.

Section 4. Creates s. 765.514 (1), F. S., relating to executing anatomical gifts; rennumbers subsequent sections.

Section 5. Amends s. 765.515, F.S., relating to anatomical gift information; donor documentation; donor registry maintenance and administration.

Section 6. Provides new language relating to the transfer of donor registry information from the Agency for Health Care Administration to the Florida Coalition on Donation.

Section 7. Amends s. 765.515(4)(e)1., F.S., relating to the expiration of this section upon completion of the transfer of the donor registry.

Section 8. Amends s. 765.516 (1), F.S., relating to anatomical gift revocation.

Section 9. Amends s. 765.517(3), F.S., relating to donor rights and duties.

Section 10. Creates s. 765.5201, F.S., relating to the Florida Coalition on Donation meetings; provides duties and responsibilities of the Florida Coalition on Donation.

Section 11. Amends s. 765.521, F.S., relating to driver license donations; corrects cross reference.

Section 12. Amends s. 765.5215, F.S., relating to anatomical gift education programs; use of funds for education purposes: deletes obsolete language.

Section 13. Amends s. 765.52155, F.S., relating to the Florida Organ and Tissue Donor Education and Procurement Trust Fund.

Section 14. Repeals s. 765.5216, F.S., relating the organ and tissue donor education panel.

¹⁰ Cite: www.Unos.org/data United network for Organ Sharing

¹¹ Cite: www.Unos.org/data United network for Organ Sharing

Section 15. Amends s. 765.522(2), (5), and (6), F.S., relating to duties of certain hospital administrators; liability of hospital administrators, organ procurement organizations, eye banks, and tissue banks.

Section 16. Amends s. 765.544(2) and (4), F.S., relating to fees and use of funds.

Section 17. Provides new language relating to use of organ and tissue trust fund monies regarding the transition of the organ and tissue donor registry and donor registration notification; expiration of this section upon completion of the donor registry transfer.

Section 18. Amends s. 215.20(4)(a), F.S., trust fund allocation.

Section 19. Amends s. 320.08047, F.S., relating to voluntary contribution for organ and tissue donor education.

Section 20. Amends s. 322.08(6), F.S., relating to license application voluntary contributions; corrects cross references.

Section 21. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Provisions of the bill would change the existing Florida Organ and Tissue donor Education and Procurement Trust Fund into a trust fund that would provide for Agency regulatory activities only. Donated funds would be distributed to the Florida Coalition on Donation for donor education and the Donor Registry. In fiscal year 2005-06, revenues to the Florida Organ and Tissue Donor Education and Procurement Trust Fund totaled \$431,663.16, \$285,122.40 received from regulatory activities and \$146,540.76 from donations forwarded through the Department of Highway Safety and Motor Vehicles. Since the Agency would no longer be responsible for donor education and the donor registry, the reduction in voluntary contributions would not impact state operations.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Department of Motor Vehicles: The bill requires some program modifications to be made to the Driver License Software Systems. The Department of Motor Vehicles will absorb costs associated with these modifications within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Agency for Health Care Administration: None

The Department of Motor Vehicles: The Department of Motor Vehicles shall adopt rules to provide for donor identification verification.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Every 35 hours, someone who is awaiting an organ transplant in Florida will die because there are not enough organ donors. While we know we cannot stop this completely, HB 455 will work to decrease this number by encouraging more people to register to become donors.

HB 455 creates a private-public partnership of Florida's organ donor registry by moving it from the Agency for Health Care Administration and creating the Florida Coalition on Donation. Under the new partnership, the Coalition will work to maintain a website and registry to educate and encourage citizens to become donors and easily update the records of previously registered donors. The website also will allow procurement organizations (entities that secure organ and tissue donations) to quickly access information to determine an individual's donor designation.

Under the current system to become a donor a person has to go to the Department of Motor Vehicles (DMV) to register. This new website will allow for registration from anywhere. Organizations can hold registration drives, kiosks can be set up anywhere, and e-mails can be sent to encourage people to give the gift of life. There are a series of safeguards to ensure the person registering is in fact the person he or she is claiming to be.

In addition to the new website, the Coalition will be implementing educational campaigns to inform people about the benefits of organ and tissue donation. Currently AHCA develops programming to educate medical professionals, law enforcement agencies and officers, high school students, state and

local government employees, and the public. The Coalition would expand that effort by adding programs that specifically target minority communities, where donor numbers tend to be lower.

In states that have adopted similar laws, there has been almost a doubling of the registry. This great bill has the potential to save more lives in Florida. It will give the people awaiting a transplant the opportunity for a full and productive life.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HB 455

2007

1 A bill to be entitled
2 An act relating to organ and tissue donation; providing
3 findings and intent; amending s. 765.511, F.S.; providing
4 a definition; amending s. 765.512, F.S.; providing for
5 donation by joining a donor registry; providing for
6 validity of a designation of intent to donate by an
7 unemancipated minor upon the minor's attaining majority;
8 conforming provisions; amending s. 765.514, F.S.;
9 providing for authorization of anatomical donations by
10 notations on a driver's license or identification card;
11 providing for effect on authorization of license
12 revocation, suspension, expiration, or cancellation;
13 providing for authorization of anatomical donation by
14 inclusion on a donor registry; providing for authorization
15 of donation through online access to registry; providing
16 for rulemaking; revising the uniform donor card; amending
17 s. 765.515, F.S.; revising provisions relating to
18 communication of specified information to the donor
19 registry; providing for administration of the donor
20 registry by a specified nonprofit corporation rather than
21 by a state agency; revising provisions relating to
22 registry administration; requiring an annual report;
23 providing for verification of certain online entries;
24 providing for voluntary contributions to the registry;
25 revising provisions relating to payment of costs of the
26 registry; providing for expiration of specified
27 transitional provisions; providing for provision of
28 current registry information to the Florida Coalition on

HB 455

2007

29 Donation; amending s. 765.516, F.S.; authorizing
 30 revocation of anatomical gift by a donor through removal
 31 of his or her name from the donor registry; amending s.
 32 765.517, F.S.; revising provisions relating to
 33 verification of a donor's consent at death; creating s.
 34 765.5201, F.S.; providing legislative findings concerning
 35 the Florida Coalition on Donation; providing for
 36 application of public meetings requirements to certain
 37 meetings of the coalition; amending s. 765.521, F.S.;
 38 revising provisions relating to authorization of donations
 39 as a part of the driver license or identification card
 40 process; amending s. 765.5215, F.S.; revising provisions
 41 relating to anatomical gift education programs; amending
 42 s. 765.52155, F.S.; redesignating the Florida Organ and
 43 Tissue Donor Education and Procurement Trust Fund as the
 44 Florida Organ and Tissue Procurement Trust Fund; repealing
 45 s. 765.5216, F.S., relating to the organ and tissue donor
 46 education panel; amending s. 765.522, F.S.; revising
 47 duties of hospital administrators at or near the time of
 48 death of persons who are suitable candidates for organ or
 49 tissue donation; providing specified immunity to the
 50 Florida Coalition on Donation; revising authority for
 51 designation of organ procurement organizations; amending
 52 s. 765.544, F.S.; revising provisions relating to the use
 53 of the Florida Organ and Tissue Procurement Trust Fund;
 54 providing for use of specified funds for certain
 55 transitional and notification purposes; providing for
 56 expiration of specified provisions; amending s. 215.20,

F.S.; conforming provisions to the redesignation of the Florida Organ and Tissue Donor Education and Procurement Trust Fund as the Florida Organ and Tissue Procurement Trust Fund; amending ss. 320.08047 and 322.08, F.S.; revising distribution of specified voluntary contributions for organ and tissue donor education; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The Legislature finds that:

(a) There exists in the state a shortage of organ and tissue donors to provide the organs and tissue that could save lives or enhance the quality of life for many Floridians.

(b) There is a need to encourage the various minority populations of Florida to donate organs and tissue.

(c) An enhanced program of donor education coupled with an online registration process developed and implemented by a private not-for-profit entity in cooperation with the Department of Highway Safety and Motor Vehicles that will report its results to the Agency for Health Care Administration and the Legislature will lead to an increase in the number of organ and tissue donors registered in Florida.

(d) The Florida Coalition on Donation has been established as a not-for-profit entity by the Florida organ procurement organizations designated by the United States Department of Health and Human Services and Florida tissue banks and eye

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banks, all certified by the Agency for Health Care Administration.

(2) It is the intent of the Legislature that the funds collected pursuant to ss. 320.08047 and 322.08(6)(b), Florida Statutes, be used to maintain the donor registry and for educational purposes aimed at increasing the number of organ and tissue donors, thus affording more Floridians who are awaiting organ or tissue transplants the opportunity for a full and productive life.

Section 2. Subsections (4) and (5) of section 765.511, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section to read:

765.511 Definitions.--As used in this part, the term:

(4) "Florida Coalition on Donation" or "coalition" means the Florida Coalition on Donation, Inc., a not-for-profit corporation.

Section 3. Subsections (2) and (3) of section 765.512, Florida Statutes, are amended to read:

765.512 Persons who may make an anatomical gift.--

(2) If the decedent has executed an agreement concerning an anatomical gift, by signing an organ and tissue donor card, by joining the organ donor registry, by expressing his or her wish to donate in a living will or advance directive, or by signifying his or her intent to donate on his or her driver's license or identification card or in some other written form has indicated his or her wish to make an anatomical gift, and in the absence of actual notice of contrary indications by the

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112 decedent, the document is evidence of legally sufficient
 113 informed consent to donate an anatomical gift and is legally
 114 binding. If an unemancipated minor designates his or her intent
 115 to donate on his or her driver's license or identification card,
 116 the designation shall have the same effect as if it had been
 117 made by an adult once he or she attains the age of majority. Any
 118 surrogate designated by the decedent pursuant to part II of this
 119 chapter may give all or any part of the decedent's body for any
 120 purpose specified in s. 765.510.

121 (3) If the decedent has not executed an agreement
 122 concerning an anatomical gift, is not included in the donor
 123 registry, or has not designated a surrogate pursuant to part II
 124 of this chapter to make an anatomical gift pursuant to the
 125 conditions of subsection (2), a member of one of the classes of
 126 persons listed below, in the order of priority stated and in the
 127 absence of actual notice of contrary indications by the decedent
 128 or actual notice of opposition by a member of the same or a
 129 prior class, may give all or any part of the decedent's body for
 130 any purpose specified in s. 765.510:

- 131 (a) The spouse of the decedent;
- 132 (b) An adult son or daughter of the decedent;
- 133 (c) Either parent of the decedent;
- 134 (d) An adult brother or sister of the decedent;
- 135 (e) A grandparent of the decedent;
- 136 (f) A guardian of the person of the decedent at the time
- 137 of his or her death; or
- 138 (g) A representative ad litem who shall be appointed by a
- 139 court of competent jurisdiction forthwith upon a petition heard

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ex parte filed by any person, which representative ad litem shall ascertain that no person of higher priority exists who objects to the gift of all or any part of the decedent's body and that no evidence exists of the decedent's having made a communication expressing a desire that his or her body or body parts not be donated upon death;

but no gift shall be made by the spouse if any adult son or daughter objects, and provided that those of higher priority, if they are reasonably available, have been contacted and made aware of the proposed gift, and further provided that a reasonable search is made to show that there would have been no objection on religious grounds by the decedent.

Section 4. Section 765.514, Florida Statutes, is amended to read:

765.514 Manner of executing anatomical gifts.--

(1) A gift of all or part of the body under s. 765.512(1) may be made by:

(a) A statement or symbol indicating that the donor has made an anatomical gift that he or she has authorized to be imprinted on his or her driver's license or identification card. Revocation, suspension, expiration, or cancellation of a driver's license or identification card upon which an anatomical gift is indicated does not invalidate the gift.

(b) A statement indicating that the donor has made an anatomical gift that he or she has authorized to be included on the donor registry. Individuals may make such an authorization through online access to the donor registry. The Department of

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Highway Safety and Motor Vehicles shall adopt rules to provide for verification of the identity of such individuals in a manner similar to the verification of identity for online drivers license renewal.

(c) A will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated or if it is declared invalid for testamentary purposes, the gift is nevertheless valid to the extent that it has been acted upon in good faith.

~~(d) 1. (2) (a) A gift of all or part of the body under s. 765.512(1) may also be made by~~ A document other than a will. The gift becomes effective upon the death of the donor. The document must be signed by the donor in the presence of two witnesses who shall sign the document in the donor's presence. If the donor cannot sign, the document may be signed for him or her at the donor's direction and in his or her presence and the presence of two witnesses who must sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

2. (b) The following form of written instrument shall be sufficient for any person to give all or part of his or her body for the purposes of this part:

UNIFORM DONOR CARD

The undersigned hereby makes this anatomical gift, if medically acceptable, to take effect on death. The words and marks below indicate my desires:

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196 I give:

197 (a) _____ any needed organs, tissues, or eyes ~~or parts~~;

198 (b) _____ only the following organs, tissues, or eyes ~~or~~

199 ~~parts~~

200 [Specify the organ(s), tissue(s), or eye(s) ~~or part(s)~~]

201 for the purpose of transplantation, therapy, medical research,

202 or education;

203 (c) _____ my body for anatomical study if needed.

204 Limitations or special wishes, if any:

205 (If applicable, list specific donee) [This must be arranged in

206 advance with the donee.]

207

208 Signed by the donor and the following witnesses in the presence

209 of each other:

210

211 (Signature of donor)	(Date of birth of donor)
212 (Date signed)	(City and State)
213	
214 (Witness)	(Witness)
215 (Address)	(Address)

216 (2) ~~(3)~~ The gift may be made to a donee specified by name.

217 If the donee is not specified by name, the gift may be accepted

218 by the attending physician as donee upon or following the

219 donor's death. If the gift is made to a specified donee who is

220 not available at the time and place of death, the attending

221 physician may accept the gift as donee upon or following death

222 in the absence of any expressed indication that the donor

223 desired otherwise. However, the Legislature declares that the

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public policy of this state prohibits restrictions on the possible recipients of an anatomical gift on the basis of race, color, religion, sex, national origin, age, physical handicap, health status, marital status, or economic status, and such restrictions are hereby declared void and unenforceable. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

~~(3)(4)~~ Notwithstanding s. 765.517(2), the donor may designate in his or her will or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

~~(4)(5)~~ Any gift by a member of a class designated in s. 765.512(3) must be made by a document signed by that person or made by that person's witnessed telephonic discussion, telegraphic message, or other recorded message.

Section 5. Section 765.515, Florida Statutes, is amended to read:

765.515 Delivery of document; organ and tissue donor registry.--

(1) If a gift is made pursuant to ~~through the program established by the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles under the authority of s. 765.521,~~ the completed donor registration card shall be delivered to the Department of Highway Safety and Motor

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Vehicles and processed as provided ~~in a manner specified~~ in subsection (4), but delivery is not necessary to the validity of the gift. If the donor withdraws the gift, the records of the Department of Highway Safety and Motor Vehicles shall be updated to reflect such withdrawal and the department shall communicate the withdrawal to the Florida Coalition on Donation for the purpose of updating the donor registry.

(2) If a gift is not made pursuant to ~~through the program established by the Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles under the authority of s. 765.521~~ and is made by the donor to a specified donee, the document, other than a will, may be delivered to the donee to expedite the appropriate procedures immediately after death, but delivery is not necessary to the validity of the gift. Such document may be deposited in any hospital, bank, storage facility, or registry office that accepts such documents for safekeeping or for facilitation of procedures after death.

(3) On the request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

(4) (a) The Florida Coalition on Donation ~~The Agency for Health Care Administration and the Department of Highway Safety and Motor Vehicles~~ shall maintain ~~develop and implement~~ an organ and tissue donor registry that ~~which~~ shall record, through electronic means, organ and tissue donation records ~~documents~~ submitted through the driver license identification program or through ~~by~~ other sources. The registry shall be maintained in a manner that ~~which~~ will allow, through electronic and telephonic

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methods, immediate access to organ and tissue donation records
~~documents~~ 24 hours a day, 7 days a week. ~~Hospitals,~~ Organ, and
tissue, and eye procurement agencies that are certified by the
Agency for Health Care Administration to obtain consent for
donation and to screen potential organ and tissue donors, the
Florida Coalition on Donation, the Department of Highway Safety
and Motor Vehicles, and other parties identified by the agency
by rule shall be allowed access through coded means to the
information stored in the registry. Both the coalition and the
Department of Highway Safety and Motor Vehicles shall have
administrative responsibilities for the registry.

(b) The coalition shall submit an annual written report to
the Legislature that includes all of the following:

1. The number of donors on the registry.
2. The changes in the number of donors on the registry.
3. The general characteristics of donors as may be
determined from registry information submitted directly by the
donors or by the Department of Highway Safety and Motor
Vehicles.

(c) Upon request by the Department of Highway Safety and
Motor Vehicles, the coalition will provide the department with a
list of the names of individuals who joined the donor registry
online. This list shall be used to confirm that the identities
of all such individuals were verified through the process
authorized in s. 765.514(1)(b).

(d) The coalition may receive voluntary contributions to
support its activities and the registry.

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(e)1. Costs for the orderly transition of the organ and tissue donor registry from the Agency for Health Care Administration to the coalition and for the notification of potential donors of the changes to the registration process shall be paid from the Florida Organ and Tissue Donor Education and Procurement Trust Fund created by s. 765.52155.

2. Except as provided in subparagraph 1., costs for maintaining the organ and tissue donor registry shall be paid from funds collected pursuant to ss. 320.08047 and 322.08(6)(b) and from any other funds available to the coalition for this purpose. ~~Funds deposited into the Florida Organ and Tissue Donor Education and Procurement Trust Fund shall be utilized by the Agency for Health Care Administration for maintaining the organ and tissue donor registry and for organ and tissue donor education.~~

Section 6. At the time of implementation of the amendments concerning the organ and tissue donor registry in s. 765.515(4), Florida Statutes, made by this act, the Florida Coalition on Donation shall assume responsibility for all aspects of the donor registry and the Agency for Health Care Administration shall provide the coalition with the current registry information, including donor registration documents, for all previously registered donors.

Section 7. Section 765.515(4)(e)1., Florida Statutes, as amended by this act, shall expire upon completion of the transition of the organ and tissue donor registry from the Agency for Health Care Administration to the Florida Coalition

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on Donation and the notification of potential donors of the
changes to the registration process.

Section 8. Paragraph (e) is added to subsection (1) of
section 765.516, Florida Statutes, to read:

765.516 Amendment of the terms of or the revocation of the
gift.--

(1) A donor may amend the terms of or revoke an anatomical
gift by:

(e) Removal of his or her own name from the donor
registry.

Section 9. Subsection (3) of section 765.517, Florida
Statutes, is amended to read:

765.517 Rights and duties at death.--

(3) The organ procurement organization, tissue bank, or
eye bank, or hospital medical professionals under the direction
thereof, may perform any and all tests to evaluate the deceased
as a potential donor and any invasive procedures on the deceased
body in order to preserve the potential donor's organs. These
procedures do not include the surgical removal of an organ or
penetrating any body cavity, specifically for the purpose of
donation, until:

(a) It has been verified that the deceased's consent to
donate appears in the donor registry or until a properly
executed donor card or document is located; ~~or,~~

(b) If a properly executed donor card or document cannot
be located and the deceased's consent is not listed on the donor
registry, until a person specified in s. 765.512(3) has been

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located, has been notified of the death, and has granted legal permission for the donation.

Section 10. Section 765.5201, Florida Statutes, is created to read:

765.5201 Meetings of the Florida Coalition on Donation.--

(1)(a) The Legislature finds that the Florida Coalition on Donation, a private not-for-profit corporation whose members provided organ and tissue donor education to the citizens of Florida prior to assumption of responsibility for donor education pursuant to s. 765.5215, does not perform a public function when preparing general organ and tissue donor education programs.

(b) The legislature has delegated the following public purposes to the coalition:

1. Operating and maintaining the organ and tissue donor registry.

2. Developing and implementing, along with the Department of Highway Safety and Motor Vehicles, a program to allow individuals to make anatomical gifts through the process of issuing and renewing driver licenses and identification cards.

3. Developing a program to educate state and local government employees, including law enforcement agencies and officers, concerning anatomical gifts.

(2) Any meetings of the governing board of the coalition discussing any of these public purposes, as well as meetings discussing the expenditure of dollars obtained pursuant to ss. 320.08047 and 322.08(6)(b), must remain open to the public in accordance with s. 286.011 and s. 24(b), Art. I of the State

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Constitution, unless made confidential or exempt by law. Other meetings of the governing board of the coalition are not subject to s. 286.011 or s. 24(b), Art. I of the State Constitution.

Section 11. Section 765.521, Florida Statutes, is amended to read:

765.521 Donations as part of driver license or identification card process.--

(1) ~~The Agency for Health Care Administration and the~~ Department of Highway Safety and Motor Vehicles and the Florida Coalition on Donation shall develop and implement a program encouraging and allowing persons to make anatomical gifts as a part of the process of issuing identification cards and issuing and renewing driver licenses. The donor registration card distributed by the Department of Highway Safety and Motor Vehicles shall include the material specified by s. 765.514 (1)(d)2. ~~(2)(b)~~ and may require such additional information, and include such additional material, as may be deemed necessary by that department. The Department of Highway Safety and Motor Vehicles shall also develop and implement a program to identify donors, which program shall include notations on identification cards, driver licenses, and driver records or such other methods as the department may develop. This program shall include, after an individual has completed a donor registration card, making a notation on the front of the driver license or identification card that clearly indicates the individual's intent to donate the individual's organs or tissue. A notation on an individual's driver license or identification card that the individual intends to donate organs or tissues is

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deemed sufficient to satisfy all requirements for consent to organ or tissue donation. The coalition ~~Agency for Health Care Administration~~ shall provide the necessary supplies and forms through funds collected under ss. 320.08047 and 322.08(6)(b) ~~appropriated from general revenue~~ or contributions from interested voluntary, nonprofit organizations. The Department of Highway Safety and Motor Vehicles shall provide the necessary recordkeeping system through funds appropriated from general revenue. The Department of Highway Safety and Motor Vehicles and the coalition ~~Agency for Health Care Administration~~ shall incur no liability in connection with the performance of any acts authorized herein.

(2) The Department of Highway Safety and Motor Vehicles, ~~after consultation with and concurrence by the Agency for Health Care Administration,~~ shall adopt rules to implement the provisions of this section pursuant according to ss. 120.536(1) and 120.54 ~~the provisions of chapter 120.~~

~~(3) Funds expended by the Agency for Health Care Administration to carry out the intent of this section shall not be taken from any funds appropriated for patient care.~~

Section 12. Section 765.5215, Florida Statutes, is amended to read:

765.5215 Education program relating to anatomical gifts.--

(1) The Florida Coalition on Donation has established, and continues to develop, a program to educate the citizens of Florida, including medical professionals, students, and minority communities, regarding the laws of this state relating to anatomical gifts and the need for anatomical gifts. The Agency

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445 ~~for Health Care Administration,~~ Subject to the concurrence of
446 the Department of Highway Safety and Motor Vehicles, the
447 coalition shall expand this program by developing ~~develop~~ a
448 continuing program to educate and inform ~~medical professionals,~~
449 ~~law enforcement agencies and officers, high school children,~~
450 state and local government employees, including law enforcement
451 agencies and officers, ~~and the public~~ regarding the laws of this
452 state relating to anatomical gifts and the need for anatomical
453 gifts.

454 (2)(1) The program is to be implemented with ~~the~~
455 ~~assistance of the organ and tissue donor education panel as~~
456 ~~provided in s. 765.5216 and with the funds collected under ss.~~
457 320.08047 and 322.08(6)(b) and any other funds available to the
458 coalition for the purpose of education. Existing community
459 resources, when available, must be used to support the program,
460 and volunteers may assist the program to the maximum extent
461 possible. ~~The Agency for Health Care Administration may contract~~
462 ~~for the provision of all or any portion of the program. When~~
463 ~~awarding such contract, the agency shall give priority to~~
464 ~~existing nonprofit groups that are located within the community,~~
465 ~~including within the minority communities specified in~~
466 ~~subsection (2).~~ The program aimed at educating medical
467 professionals may be implemented by contract with one or more
468 medical schools located in the state.

469 ~~(2) The Legislature finds that particular difficulties~~
470 ~~exist in making members of the various minority communities~~
471 ~~within the state aware of laws relating to anatomical gifts and~~
472 ~~the need for anatomical gifts. Therefore, the program shall~~

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~~include, as a demonstration project, activities especially
targeted at providing such information to the nonwhite,
Hispanic, and Caribbean populations of the state.~~

(3) ~~The coalition Agency for Health Care Administration~~
shall, no later than March 1 of each year, submit a report to
the Legislature containing statistical data on the effectiveness
of the program in procuring donor organs ~~and the effect of the~~
~~program on state spending for health care.~~

(4) ~~The coalition Agency for Health Care Administration,~~
~~for the sole purpose of furthering in furtherance of its~~
educational responsibilities regarding organ and tissue
donation, shall have access to the buildings and workplace areas
of all state agencies and political subdivisions of the state.

Section 13. Section 765.52155, Florida Statutes, is
amended to read:

765.52155 Florida Organ and Tissue ~~Donor Education and~~
Procurement Trust Fund.--The Florida Organ and Tissue ~~Donor~~
~~Education and~~ Procurement Trust Fund is hereby created, to be
administered by the Agency for Health Care Administration. Funds
shall be credited to the trust fund as provided for in general
law.

Section 14. Section 765.5216, Florida Statutes, is
repealed.

Section 15. Subsections (2), (5), and (6) of section
765.522, Florida Statutes, are amended to read:

765.522 Duty of certain hospital administrators; liability
of hospital administrators, organ procurement organizations, eye
banks, and tissue banks.--

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(2) Where, based on accepted medical standards, a hospital patient is a suitable candidate for organ or tissue donation, the hospital administrator or the hospital administrator's designee shall, at or near the time of death, notify the appropriate organ, tissue, or eye recovery program, which shall access the organ and tissue donor registry created by s. 765.515(4) to ascertain the existence of a donor card or document executed by the decedent. In the absence of a donor card, organ donation sticker or organ donation imprint on a driver's license, or other properly executed document, the organ, tissue, or eye recovery program ~~hospital administrator or designee~~ shall request:

(a) The patient's health care surrogate, as permitted in s. 765.512(2); or

(b) If the patient does not have a surrogate, or the surrogate is not reasonably available, any of the persons specified in s. 765.512(3), in the order and manner of priority stated in s. 765.512(3),

to consent to the gift of all or any part of the decedent's body for any purpose specified in this part. Except as provided in s. 765.512, in the absence of actual notice of opposition, consent need only be obtained from the person or persons in the highest priority class reasonably available.

(5) There shall be no civil or criminal liability against any organ procurement organization, eye bank, or tissue bank certified under s. 765.542, ~~or~~ against any hospital or hospital administrator or designee, or against the Florida Coalition on

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Donation, when complying with the provisions of this part and the rules of the Agency for Health Care Administration or when, in the exercise of reasonable care, a request for organ donation is inappropriate and the gift is not made according to this part and the rules of the Agency for Health Care Administration.

(6) The hospital administrator or a designee shall, at or near the time of death of a potential organ donor, directly notify the affiliated ~~Health Care Financing Administration~~ designated organ procurement organization designated as such by the United States Department of Health and Human Services of the potential organ donor. This organ procurement organization must offer any organ from such a donor first to patients on a Florida-based local or state organ sharing transplant list. For the purpose of this subsection, the term "transplant list" includes certain categories of national or regional organ sharing for patients of exceptional need or exceptional match, as approved or mandated by the United Network for Organ Sharing. This notification must not be made to a tissue bank or eye bank in lieu of the organ procurement organization unless the tissue bank or eye bank is also a ~~Health Care Financing Administration~~ designated as an organ procurement organization by the United States Department of Health and Human Services.

Section 16. Subsections (2) and (4) of section 765.544, Florida Statutes, are amended to read:

765.544 Fees; Florida Organ and Tissue ~~Donor Education and~~ Procurement Trust Fund.--

(2) The Agency for Health Care Administration shall assess annual fees to be used, in the following order of priority, for

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557 the certification program and, the advisory board, ~~maintenance~~
558 ~~of the organ and tissue donor registry, and the organ and tissue~~
559 ~~donor education program~~ in the following amounts, which may not
560 exceed \$35,000 per organization:

561 (a) Each general organ procurement organization shall pay
562 the greater of \$1,000 or 0.25 percent of its total revenues
563 produced from procurement activity in this state by the
564 certificateholder during its most recently completed fiscal year
565 or operational year.

566 (b) Each bone and tissue procurement agency or bone and
567 tissue bank shall pay the greater of \$1,000 or 0.25 percent of
568 its total revenues from procurement and processing activity in
569 this state by the certificateholder during its most recently
570 completed fiscal year or operational year.

571 (c) Each eye bank shall pay the greater of \$500 or 0.25
572 percent of its total revenues produced from procurement activity
573 in this state by the certificateholder during its most recently
574 completed fiscal year or operational year.

575 (4)(a) Proceeds from fees, administrative penalties, and
576 surcharges collected pursuant to subsections (2) and (3) must be
577 deposited into the Florida Organ and Tissue ~~Donor Education and~~
578 Procurement Trust Fund created by s. 765.52155.

579 (b) Moneys deposited in the trust fund pursuant to this
580 section must be used exclusively for the implementation,
581 administration, and operation of the certification program and
582 the advisory board, ~~for maintaining the organ and tissue donor~~
583 ~~registry, and for organ and tissue donor education.~~

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584 Section 17. In addition to uses of funds provided for in
 585 s. 765.544(2) and (4)(b), Florida Statutes, funds governed by
 586 those provisions shall be used for the orderly transition of the
 587 organ and tissue donor registry from the Agency for Health Care
 588 Administration to the Florida Coalition on Donation and
 589 notification to potential donors of the changes in the
 590 registration process. This section shall expire upon completion
 591 of the transition of the organ and tissue donor registry from
 592 the Agency for Health Care Administration to the Florida
 593 Coalition on Donation and the notification of potential donors
 594 of the changes to the registration process.

595 Section 18. Paragraph (a) of subsection (4) of section
 596 215.20, Florida Statutes, is amended to read:

597 215.20 Certain income and certain trust funds to
 598 contribute to the General Revenue Fund.--

599 (4) The income of a revenue nature deposited in the
 600 following described trust funds, by whatever name designated, is
 601 that from which the appropriations authorized by subsection (3)
 602 shall be made:

603 (a) Within the Agency for Health Care Administration:

604 1. The Florida Organ and Tissue ~~Donor Education and~~
 605 Procurement Trust Fund.

606 2. The Health Care Trust Fund.

607 3. The Resident Protection Trust Fund.

608

609 The enumeration of the foregoing moneys or trust funds shall not
 610 prohibit the applicability thereto of s. 215.24 should the
 611 Governor determine that for the reasons mentioned in s. 215.24

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the money or trust funds should be exempt herefrom, as it is the purpose of this law to exempt income from its force and effect when, by the operation of this law, federal matching funds or contributions or private grants to any trust fund would be lost to the state.

Section 19. Section 320.08047, Florida Statutes, is amended to read:

320.08047 Voluntary contribution for organ and tissue donor education.--As a part of the collection process for license taxes as specified in s. 320.08, individuals shall be permitted to make a voluntary contribution of \$1, which contribution shall be distributed to the Florida Coalition on Donation ~~deposited into the Florida Organ and Tissue Donor Education and Procurement Trust Fund~~ for organ and tissue donor education and for maintaining the organ and tissue donor registry.

Section 20. Subsection (6) of section 322.08, Florida Statutes, is amended to read:

322.08 Application for license.--

(6) The application form for a driver's license or duplicate thereof shall include language permitting the following:

(a) A voluntary contribution of \$5 per applicant, which contribution shall be transferred into the Election Campaign Financing Trust Fund.

(b) A voluntary contribution of \$1 per applicant, which contribution shall be distributed to the Florida Coalition on Donation ~~deposited into the Florida Organ and Tissue Donor~~

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640 ~~Education and Procurement Trust Fund~~ for organ and tissue donor
641 education and for maintaining the organ and tissue donor
642 registry.

643 (c) A voluntary contribution of \$1 per applicant, which
644 contribution shall be distributed to the Florida Council of the
645 Blind.

646 (d) A voluntary contribution of \$2 per applicant, which
647 shall be distributed to the Hearing Research Institute,
648 Incorporated.

649 (e) A voluntary contribution of \$1 per applicant, which
650 shall be distributed to the Juvenile Diabetes Foundation
651 International.

652 (f) A voluntary contribution of \$1 per applicant, which
653 shall be distributed to the Children's Hearing Help Fund.
654

655 A statement providing an explanation of the purpose of the trust
656 funds shall also be included. For the purpose of applying the
657 service charge provided in s. 215.20, contributions received
658 under paragraphs (b), (c), (d), (e), and (f) and under s.
659 322.18(9)(a) are not income of a revenue nature.

660 Section 21. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. HB 455

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Health Innovation
Representative(s) Cretul offered the following:

Amendment

Remove line(s) 365-391 and insert:

765.5201 Records and meetings of the Florida Coalition on
Donation are open to the public in accordance with s. 119.07(1),
s. 286.011, and s. 24, Art. I of the State Constitution, unless
otherwise made exempt by law.

===== T I T L E A M E N D M E N T =====

Remove line(s) 34-37 and insert:

765.5201, F.S.; providing for application of public records and
meetings requirements to the Florida Coalition on Donation; amending
s. 765.521, F.S.;

000000

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 543 Immunization Services
SPONSOR(S): Zapata
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Innovation		Ciccone <i>JC</i>	Calamas <i>CC</i>
2) Healthcare Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 543 addresses access to immunization services and provides a comprehensive approach to prevent the spread of certain diseases through increased access to immunization services. The bill provides a mechanism to coordinate immunization programs including vaccine and disease education programs, enhance health care provider use and flexibility, and encourage vaccine production and distribution in Florida.

The bill requires that the Department of Management Services establish a schedule of minimum benefits for health maintenance organization participating in the state group insurance program to include coverage for immunization services. The bill also requires additional insurance option coverage for immunizations on accident or health insurance policies issued, amended, delivered or renewed in Florida. The bill specifies that the additional coverage may be offered for an appropriate additional premium and that this coverage is not subject to the deductible co-payment or coinsurance provisions of the policy.

The bill directs Enterprise Florida, Inc., to conduct an outreach campaign to encourage pharmaceutical companies in Florida to produce vaccines and to encourage pharmaceutical companies outside of Florida to establish facilities in Florida.

The bill directs certain assisted living facilities to implement an immunization program against the influenza virus and pneumococcal bacteria to patients age 65 or older. The bill directs the Department of Health to advise assisted living facilities of their responsibilities related to the immunization program and provides that immunization providers be reimbursed at the Medicare reimbursement rate to administer the immunization and for any applicable reimbursement for the ingredient cost.

The bill authorizes pharmacists to administer influenza virus immunizations to adults under protocol with a supervising Florida-licensed physician or by written agreement with a county health department. Pharmacists seeking to provide flu immunizations must meet the following qualifications:

- To maintain at least \$200,000 of professional liability insurance;
- To enter into a supervisory protocol with a physician or public health department;
- To have written approval to administer flu vaccines from the pharmacy center; and
- To have received training and immunization certification approved by the Board of Pharmacy in consultation with the Board of Medicine;
- To have 20 hours of continuing education classes approved by the Board of Pharmacy, instruction in safe and effective administration of immunizations, and instruction in potential allergic reactions to immunizations.

The bill directs each district school board and the governing authority of each private school to provide information regarding meningococcal disease to students' parents and leaves the method to provide such information up to the district school board and the governing authority of the private school.

The bill requires that Florida Bright Futures Scholarship awards include immunization coverage for students enrolling in a state university and coverage for yearly recommended student influenza immunizations. The bill also requires that prepaid college plans purchased through the Stanley G. Tate Florida Prepaid College Program include immunization coverage for students enrolling in a state university and one-time coverage for meningococcal immunization at the student's option and for yearly recommended student influenza immunizations.

The cost to implement the bill will be more than \$16.3 million in General Revenue annually. (See Fiscal Analysis Section)

The bill provides an effective date of July 1, 2007.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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05/06/07

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility - the bill provides individuals and families with increased access to immunizations services and health insurance immunizations options. Increased awareness, availability and accessibility are intended to encourage persons to take precautionary measures to protect their health.

Empower families – the bill provides greater access to immunizations services for individuals. The bill provides health insurance immunization options for individuals.

B. EFFECT OF PROPOSED CHANGES:

House Bill 543 addresses access to immunization services for children and adults and provides a comprehensive approach to preventing the spread of certain diseases through increased access to immunization services. The bill provides a mechanism to coordinate immunization programs and information including vaccine and disease education programs, enhance health care provider flexibility, and encourage vaccine production and distribution in Florida. The intended effect of this bill is to prevent the spread of communicable diseases by improving access to immunization services.

The bill amends s. 400.426, F.S., and required each licensed Assisted Living Facility to implement a program to offer immunizations against influenza and pneumococcal bacteria to all residents age 65 or older in accordance with recommendations of the Advisory Committee on Immunizations Practices and the Centers for Disease Control and Prevention. This program is to be carried out between October 1 and February 1 or each year, subject to adequate vaccine supplies and subject to the responsible practitioner's clinical judgment. The bill exempts ALFs having ten or fewer residents and requires the Department of Health to provide a notice to each affected ALF.

The bill amends s. 465.003(13), F.S., to revise the definition of the "practice of the profession of pharmacy" to include the administering to adults of influenza virus immunizations by a pharmacist within the framework of an established protocol under a supervisory practitioner who is a Florida-licensed medical or osteopathic physician or by written agreement with a county health department. Each protocol must contain specific procedures to address any unforeseen allergic reaction to an immunization.

A pharmacist may not enter into a protocol unless he or she maintains at least \$200,000 of professional liability insurance and not until the pharmacist has completed training in immunizations as required by the Board of Pharmacy. The decision by a supervisory practitioner to enter into such a protocol is a professional decision of the practitioner, and a person may not interfere with a supervisory practitioner's decision as to whether to enter into such a protocol. A pharmacist may not enter into a protocol to administer influenza virus immunizations while acting as an employee without the written approval of the owner of the pharmacy.

Any pharmacist seeking to immunize patients must be certified to administer immunizations under a certification program approved by the Board of Pharmacy upon consultation with the Board of Medicine. The certification program must, at a minimum, require that a pharmacist attend at least 20 hours of continuing education classes approved by the Board of Pharmacy. The program must have a curriculum of instruction concerning the safe and effective administration of immunizations, including, but not limited to, potential allergic reactions to immunizations.

The bill creates s. 627.64194 Coverage for Immunizations within Part VI of the Florida Insurance Code. This newly created statute would require accident or health insurers to offer optional coverage for immunizations, including those recommended or required for specific international travel. Further, the proposal would allow an insurer to charge an additional premium for immunization coverage and the coverage would not be subject to any deductible co-payment or coinsurance provisions.

Present Situation

Public and Private Schools Immunization Information

Sections 1002.23(7) (e) 2 and 1002.42 (6) (b) 2, F.S., specifies that public and private schools must provide every students' parents with information on the importance of school health and available immunizations and vaccinations, including, but not limited to:

- a recommended immunizations schedule, in accordance with the United States Centers for Disease Control and Prevention recommendations; and
- detailed information regarding the causes, symptoms and transmission of meningococcal disease; and the availability, effectiveness, known contraindications and the appropriate age for the administration of any required or recommended vaccine against meningococcal disease, in accordance with the recommendations of the Advisory Committee on Immunizations Practices of the United States Center for Disease Control and Prevention.

Influenza Immunization

Influenza and pneumonia combined represent the fifth leading cause of death in the elderly. Influenza vaccine is the primary method for preventing influenza and its severe complications. Influenza immunization has been shown to be helpful in decreasing hospitalizations and deaths.¹

There are minimal adverse reactions or side effects associated with influenza vaccination. The most common adverse reactions to inactivated influenza vaccine are related to the body's response to the vaccine components at the site of injection. Common reactions may include inflammation at the injection site including fever, malaise, and muscle aches.² Serious immediate allergic reactions to inactivated influenza vaccines may occur within a few minutes to a few hours in individuals who likely have allergies to vaccine components. Immediate allergic reactions can appear mildly as itching and hives. In the severest form, reactions such as difficulty breathing, loss of blood pressure, and even death; however prompt medical treatment is usually effective. These potential side effects should be weighed against its benefits, which include prevention of serious illness, hospitalization, and death.

The influenza vaccine is contraindicated for people with a history of hypersensitivity to eggs or egg products or other components of influenza vaccines. As with all vaccines, it is prudent that recipients remain under observation for the first 15-30 minutes after the vaccine is injected. The purpose of this observation is to detect and treat any rare, serious allergic reactions.

Immunizations in Assisted Living Facilities

Influenza

Assisted living facilities (ALF) are licensed under Part III of Chapter 400, F.S. Currently, there is no requirement that ALF offer immunizations against the influenza virus to their residents.

¹ See 1999 RAND report prepared for the Centers for Medicare & Medicaid Services, "Interventions that increase Utilization of Medicare-Funded Preventive Services for Persons Age 65 and Older." www.cms.hhs.gov/healthyaging

² See "Prevention and control of influenza: Recommendations of the Advisory Committee on Immunization Practices," Morbidity and Mortality Weekly Report 51 (April 12, 2002).

Influenza, commonly called the “flu,” is caused by the influenza virus that infects the respiratory tract. The virus is typically spread from person to person when an infected person coughs or sneezes the virus into the air. Transmission rates are greatest for individuals in highly populated areas, such as in schools and residences with crowded living conditions. Influenza can cause severe illness and lead to serious and life-threatening complications in all age groups. Complications such as bacterial pneumonia, dehydration, and conditions such as congestive heart disease and asthma occur most often in vulnerable persons including elderly persons, those living in nursing homes and other long-term care facilities, and persons with chronic conditions.

Flu is a major cause of illness and death in the United States, and leads to over 200,000 hospitalizations and approximately 36,000 deaths each year, according to the Centers for Disease Control and Prevention (CDC).³

Vaccines are effective in protecting individuals against illness or serious complications of flu, particularly those individuals who are at high risk for developing serious complications from the disease. The Advisory Committee on Immunization Practices of CDC (ACIP) recommends that, when vaccine is available, persons in high-risk groups including individuals age 65 or older, and people with chronic diseases of the heart, lung, or kidneys, diabetes, immunosuppression, or severe forms of anemia, should be vaccinated against the flu. ACIP also recommends that residents of nursing homes and other chronic-care facilities, children receiving long-term aspirin therapy, and any person who is in close or frequent contact with anyone in the high-risk group, such as health care personnel and volunteers, be vaccinated.⁴

Medicare coverage for flu shots for the elderly began in 1993. Flu shots are available at no cost to individuals enrolled in Medicare Part B from physicians or providers who bill Medicare. If patients receive their flu vaccines from physicians or providers who do not bill Medicare, they may be reimbursed (about \$18) by Medicare. Medicare provides coverage for one influenza vaccination per year, but additional vaccinations may be available if reasonable and medically necessary. The Medicaid program covers costs for flu vaccine and administration for Medicaid patients who are residents of nursing homes and long-term care facilities who are not the recipients of Medicare benefits.

An immunization requirement similar to that proposed in the bill is imposed on licensed hospitals pursuant to s. 381.005(2), F.S., as part of the Department of Health’s primary and preventative health services mission. Similarly, s. 400.141(22) directs all licensed nursing home facilities to provide vaccinations against influenza to all consenting residents, but notes that residents aren’t foreclosed from pursuing influenza vaccination from personal physicians if proper documentation is submitted.

Pneumococcal Disease

Pneumococcal pneumonia is a lower respiratory tract infection caused by the bacterium *Streptococcus pneumoniae* which colonizes in the lungs, but can potentially invade the bloodstream (causing bacteremia) and the tissues and fluids surrounding the brain and spinal cord (resulting in a form of meningitis, an inflammation of the tissues and fluids surrounding the brain and spinal cord). “Pneumonia” is not a single disease, but rather can have over 30 different causes. The five main causes of pneumonia in the U.S. are bacteria, viruses, mycoplasmas, chemical exposure, and exposure to other infectious agents such as fungi (including pneumocystis).

Pneumococcal pneumonia is the most common cause of bacterial pneumonia acquired outside of hospitals, as CDC estimates indicate that *S. pneumoniae* causes 500,000 cases of pneumonia and is

³ See www.aphanet.org/pharmcare/immunofact.

⁴ Medicare and Medicaid Programs; conditions of Participation: Long-Term Care Facilities, and Home Health Agencies Final Rule to facilitate the delivery of adult vaccination in participating facilities for influenza and pneumococcal diseases, Federal Register, Vol. 67, No. 191, October 2, 2002.

blamed for 40,000 deaths annually in the United States.⁵ This mortality figure is the highest among vaccine-preventable bacterial diseases in the U.S.

Pharmacy Practice

Chapter 465, F.S., governs the practice of the profession of pharmacy. The Board of Pharmacy is authorized to adopt rules for duties conferred upon it under the pharmacy practice act. Section 465.003, F.S., defines the "practice of the profession of pharmacy" to include compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent and proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders; and other pharmaceutical services. "Other pharmaceutical services" means the monitoring of the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient's drug therapy and communication with the patient's prescribing health care provider or the provider's agent regarding the drug therapy. The practice of pharmacy also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and expressly permits a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients.

As of February 22, 2005, 43 states allow pharmacists to immunize patients.⁶ Several of the states permit pharmacists to immunize for virtually any disease for which a vaccine is available.

According to studies published in the *International Journal of Pharmacy Practice and Pharmacotherapy*, pharmacists providing flu vaccinations increased vaccination rates in high risk patients by 74 percent. Standing orders are used in some states to authorize licensed practitioners to administer vaccinations, after assessment for contraindications, according to a physician-approved policy without the need for a physician's order in nursing homes and hospitals.

Immunization Coverage

The state operates the state group health insurance plan as a pre-tax benefit for current and retired employees. Chapter 110, F.S., provides the statutory authority for the implementation of health insurance and prescription drug coverage for officers, employees and their dependents of State of Florida agencies. Employees and retirees may choose between a self-insured indemnity plan, called a preferred provider organization (PPO), and one of several approved health maintenance organizations. Sections 110.123 and 110.12315, F.S., describe the coverage available and specify the minimum complement of benefits each approved provider must offer.

Chapter 216, F.S., contains a procedure for the periodic estimation of revenues and expenses for state employee health insurance. The health insurance estimating conference annually reviews the income and claims experience of the self-insurance fund in an attempt to forecast the utilization demands and the legislative funding requirements for the succeeding coverage period. The plan is administered by the Division of State Group Insurance in the Department of Management Services. The PPO Plan provides universal access to employees in all Florida counties. Provider contracts with health maintenance organizations are negotiated separately. Immunization services are currently not established in the schedule of minimum benefits for health maintenance organization coverage.

Immunization Coverage within Part VI of the Florida Insurance Code

⁵ Pneumococcal Pneumonia, updated December 13, 2004, Department of Health and Human Services National Institute of Allergy and Infectious Diseases, available at www.niaid.nih.gov/factsheets/pneumonia.

⁶ See www.aphanet.org/pharmcare/immunofact

According to the Office of Insurance Regulation, the newly created statute, s. 627.64194, F.S., would require accident or health insurers to offer optional coverage for immunizations, including those recommended or required for specific international travel.⁷ The optional coverage would be subject to a co-payment and the coverage would not be subject to any deductible co-payment or coinsurance provisions.

By citing the statute in Part VI of chapter 627, the optional coverage provision is applicable only to individual health or accident policies issued by an insurer and is also made applicable to all types of health or accident policy issued to an individual, including specified disease, hospital indemnity, disability income and long term care policies. The mandatory offer would not apply to an insurer issuing a group health policy, covered under Part VII of chapter 627 or to an HMO issuing a group or individual subscriber contract covered under chapter 641 of the Florida Insurance code.

Florida Bright Futures Scholarship

In 1997, the Florida Legislature created the Florida Bright Futures Scholarship Program. The program is funded by the Florida Lottery and provides academic scholarships based on scholastic achievement during high school. Scholarships are awarded to students pursuing postsecondary education. Florida Bright Futures Scholarship Program includes three levels of awards:⁸

- Florida Academic Scholars Award;
- Florida medallion Scholars Award; and
- Florida Gold Seal Vocational Scholars Award

Levels of awards are based grade point average, required credits, community service, and test scores. The December 2006 Bright Futures Estimating Conference projects 146,554 enrollees.

Florida Prepaid College Program

Section 1009.97, F.S., established the Florida Prepaid College Program (Florida Prepaid) to allow Florida residents to pay the cost of higher education in advance at a fixed level and with a statutory state guarantee. The bill addresses the Florida Prepaid College Plan which currently offers three types of tuition plans:

- 4-Year University Tuition Plan – Covers 120 university undergraduate credit hours;
- 2+2 Tuition Plan – Covers 60 community college credit hours and 60 university undergraduate credit hours;
- 2-Year Community College Tuition Plan – Covers 60 community college credit hours.

Currently, there are approximately 800,000 program enrollees.

Enterprise Florida, Inc.

In 1992, Chapter 288, Part VII, F.S., was created establishing Enterprise Florida, Inc. (EFI) as the principal economic development organization for the state. EFI is a public-private partnership and is responsible for leading Florida's statewide economic development efforts. The organization's mission is to diversify the state's economy and create better paying jobs for its citizens by supporting, attracting and helping to create businesses in innovative, high-growth industries. EFI provides a variety of services to companies and focuses on sectors such as: life sciences, information technology, aviation/aerospace, homeland security and defense and financial and professional services. EFI works with regional and local economic development organizations to assist existing and new business with retention, expansion and creation of businesses.

⁷ See Office of Insurance regulation Legislative Review 2007, on file with the Committee.

⁸ www.MyFloridaEducation.com/brfuture

Enterprise Florida, Inc. is governed by a board of directors, consisting of business, economic and government leaders from the State and is chaired by the Governor.

C. SECTION DIRECTORY:

Section 1. Amends s. 110.123 (h) 2.a, F.S., relating to state group insurance programs.

Section 2. Creates s. 288.9416, F.S., relating to vaccine production facilities and outreach campaign for vaccine production.

Section 3. Renumbers s. 381.005 (3) as s. 381.005 (4), and creates a new s. 381.005 (3), F.S., relating to primary and preventive health services.

Section 4. Creates s. 409.908 (23), F.S., relating to reimbursement of Medicaid providers.

Section 5. Amends s. 465.003 (13), F.S., relating to pharmacy definitions.

Section 6. Creates s. 465.189 (1), F.S., relating to administration of vaccines.

Section 7. Creates s. 627.64194, F.S., relating to coverage for immunizations.

Section 8. Creates s. 1003.22 (10) (c), F.S., relating to district school boards and governing authorities of private schools.

Section 9. Amends s. 1009.53 (5), F.S., relating to Florida Bright Futures Scholarship Program.

Section 10. Amends s. 1009.98 92), F.S., relating to Stanley G. Tate Florida Prepaid College Program.

Section 11. Provides effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The administration of immunizations to Medicaid recipients will earn \$4,445,088 in federal Medicaid assistance participation.

2. Expenditures:

*The calculations provided below are based on the assumption that all Bright Futures recipients would choose to have the immunizations and that the cost for all students would be comparable to those at the Florida State University, who received their vaccinations through the Leon County Health Department. The recipient data is from the December 2006 Bright Futures Estimating Conference.

		<u>1st Year</u>	<u>2nd Year</u>	<u>3rd Year</u>
Bright Futures Recipients*	Administering meningococcal vaccine to the freshman class of 46,554 students @ \$99 per vaccine	\$4,608,846	\$4,608,846	\$4,608,846

	Administering Hepatitis B series to the freshman class of 46,554 students @ \$108 per series ⁹	\$5,027,832	\$5,027,832	\$5,027,832
	Administering Influenza to the freshman class of 46,554 students @ \$21 per vaccine	\$977,934	\$977,934	\$977,934
	Administering Influenza to 100,000 returning recipients annually @ \$21 per vaccine	\$2,100,000	\$2,100,000	\$2,100,000
Enterprise Florida	Research and analysis, marketing materials and marketing outreach	\$250,000	\$250,000	\$250,000
Department of Health	Mailing of annual reminder notices to 2,400 Assisted Living Facilities (ALFs) @ \$0.46 each	\$1,104	\$1,104	\$1,104
	Subtotal General Revenue	\$12,965,716	\$12,965,716	\$12,965,716
Medicaid	Difference between the current administration fee and the increase up to the VFC allowable maximum rate	\$7,810,733	\$7,810,733	\$7,810,733
	Total General Revenue	\$3,365,645	\$3,365,645	\$3,365,645
	Total Trust Fund	\$4,445,088	\$4,445,088	\$4,445,088

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Consumers

Consumers who are at high risk for influenza that may be prevented through immunization may have an increased access to a health care professional who can provide such immunizations, if pharmacists take advantage of the opportunity created in the bill.

Pharmacist

Pharmacists who administer influenza virus immunizations will incur costs for certification and training. According to a representative of the Florida Pharmacy Association, there should be no additional costs

⁹ The hepatitis B vaccine series consists of three doses spaced out over approximately 6 months. An individual needs to receive the whole series to be protected.

to pharmacists for the \$200,000 liability insurance mandated in the bill since most pharmacists carry at least \$1million in such coverage.

Prepaid College Program

According to the Department of Education, the bill increases the amount all future Prepaid College Plans. Typically these costs are passed on to the consumer. However, the bill also impacts all active outstanding contracts. In June 2006, the 2005-2006 the Prepaid College Program Annual Report states there were 790,670 active outstanding contracts. The increase in cost will have to be absorbed by the Prepaid College Board.

There are currently three different types of tuition plans offered under the Florida Prepaid College Program: the tuition plan, a local fee plan, and a dormitory plan. As drafted, the bill requires all plans to cover the cost of the immunizations. Some students may participate in all three plans.

Health and Accident Policy Insurers

The bill requires the immunization coverage to be offered without being subject to policy co-payments or deductibles, which will increase the cost of the benefit. According to Office of Insurance Regulation, the increased claims costs will be passed through to all policyholders in the form of increased premiums. To the extent that policyholders select this optional coverage, utilization of the benefit to prevent illness and disease represents cost avoidance to both the insurer and the policy holder.

D. FISCAL COMMENTS:

Medicaid

According to Agency for Health Care Administration (AHCA), the Florida Medicaid Program currently does not pay for immunizations administered to adults over the age of 20. The Medicaid Program does reimburse for the administration of childhood immunizations.

Individual's ages 0-18 years are provided immunizations through the Vaccine for Children (VFC) Program. The vaccines are provided at no cost to the provider through the VFC Program for 0-18 year olds. Medicaid also reimburses for the cost of the vaccine and the administration of childhood immunizations for 19-20 year olds. The number of projected enrollees is based on the February 9, 2007 Social Services Estimating Conference results.

Medicaid reimburses the administration fee to providers differently for example: physicians \$10, advanced registered nurses and physician assistants \$8, and county health departments and federally qualified health centers \$5. The Federal Register, published on October 3, 1994, provides a maximum regional charge for vaccine administration by state for VFC eligible recipients. According to the Federal Register, the maximum rate for Florida is \$16.06.

The current Medicare reimbursement rate for the administration of influenza and pneumococcal immunizations vary by location: \$18.70 in Ft. Lauderdale, \$19.59 in Miami, and \$17.90 for the remainder of the state. AHCA is concerned that increase in reimbursement rate to the Medicare rate will conflict with the Medicaid reimbursement limitations specified in the Federal Register.

The cost for administering immunizations to adults (20 years or older) is indeterminate. It is impossible ascertain an accurate number of Medicaid eligible adults who would utilize the immunization services. There would be cost associated with the provider reimbursement and the cost for ingredients.

Enterprise Florida Incorporated

According to the Office of Tourism, Trade and Economic Development, the bill will not have a fiscal impact on their agency. However, Enterprise Florida Incorporated has concern that the bill does not reflect costs associated with providing incentives that may be required to encourage pharmaceutical companies, which produce vaccines, to relocate to Florida.

State Group Insurance Program

The Department of Management Services (DMS) manages the state group insurance program that is offered to state employees. Based on a telephone conversation with DMS staff, DMS will incur costs associated with implementing the provisions of the bill. However, they mentioned needing to conduct an actuarial study to determine the increase in the premium amount to provide immunization coverage. DMS estimates that it will cost \$ 40,365 (103,500 insured @ \$0.39 each) to notify the insured of their right to elect coverage for immunization services.

Board of Pharmacy

According to the Department of Health, they may incur minimal costs associated with the Board of Pharmacy's adoption of any rules to implement training requirements for pharmacists to provide immunizations.

Assisted Living Facilities

Assisted living facilities will incur additional costs to design and implement the program required by the bill.

II. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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1 A bill to be entitled

2 An act relating to immunization services; amending s.

3 110.123, F.S.; including immunization services in the

4 schedule of minimum benefits for health maintenance

5 organizations participating in the state group insurance

6 program; creating s. 288.9416, F.S.; requiring Enterprise

7 Florida, Inc., to conduct an outreach campaign to

8 encourage pharmaceutical companies to produce vaccines in

9 the state; amending s. 381.005, F.S.; requiring certain

10 assisted living facilities to offer influenza vaccines to

11 certain patients; requiring the Department of Health to

12 send reminder notices to assisted living facilities;

13 amending s. 409.908, F.S.; providing for the reimbursement

14 of Medicaid providers of immunization services; amending

15 s. 465.003, F.S.; redefining the term "practice of the

16 profession of pharmacy" to include the administration of

17 vaccines to adults by a pharmacist; creating s. 465.189,

18 F.S.; authorizing pharmacists to administer vaccines

19 within an established protocol and under a supervisory

20 practitioner who is a licensed physician or by written

21 agreement with a county health department; providing

22 requirements for the protocol; requiring professional

23 liability insurance, training, and certification in

24 vaccination and employer approval before entering into a

25 protocol; requiring a pharmacist to maintain and make

26 available patient records for a certain time period;

27 providing requirements for the certification program;

28 creating s. 627.64194, F.S.; requiring certain health

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insurance policies to provide an option for immunization services coverage; amending s. 1003.22, F.S.; requiring district school boards and private school governing authorities to provide information relating to meningococcal disease and meningococcal disease vaccine to parents of certain students; requiring the Department of Health to adopt rules specifying which students apply to such information requirement; amending s. 1009.53, F.S.; providing that awards from the Florida Bright Futures Scholarship Program shall include coverage for certain immunizations; amending s. 1009.98, F.S.; requiring all Stanley G. Tate Florida Prepaid College Program plans to include coverage for certain immunizations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (h) of subsection (3) of section 110.123, Florida Statutes, is amended to read:

110.123 State group insurance program.--

(3) STATE GROUP INSURANCE PROGRAM.--

(h)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a

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health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; age-based and gender-based wellness benefits; immunization services; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO. As used in this paragraph, the term "age-based and gender-based wellness benefits" includes aerobic exercise, education in alcohol and substance abuse prevention, blood cholesterol screening, health risk appraisals, blood pressure screening and education, nutrition education, program planning, safety belt education, smoking cessation, stress management, weight management, and women's health education.

85 b. The department may establish uniform deductibles,
86 copayments, coverage tiers, or coinsurance schedules for all
87 participating HMO plans.

88 c. The department may require detailed information from
89 each health maintenance organization participating in the
90 procurement process, including information pertaining to
91 organizational status, experience in providing prepaid health
92 benefits, accessibility of services, financial stability of the
93 plan, quality of management services, accreditation status,
94 quality of medical services, network access and adequacy,
95 performance measurement, ability to meet the department's
96 reporting requirements, and the actuarial basis of the proposed
97 rates and other data determined by the director to be necessary
98 for the evaluation and selection of health maintenance
99 organization plans and negotiation of appropriate rates for
100 these plans. Upon receipt of proposals by health maintenance
101 organization plans and the evaluation of those proposals, the
102 department may enter into negotiations with all of the plans or
103 a subset of the plans, as the department determines appropriate.
104 Nothing shall preclude the department from negotiating regional
105 or statewide contracts with health maintenance organization
106 plans when this is cost-effective and when the department
107 determines that the plan offers high value to enrollees.

108 d. The department may limit the number of HMOs that it
109 contracts with in each service area based on the nature of the
110 bids the department receives, the number of state employees in
111 the service area, or any unique geographical characteristics of

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the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program may be required to contribute towards a total state group health premium that may vary depending upon the plan and coverage tier selected by the enrollee and the level of state contribution authorized by the Legislature.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department may enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25-percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95

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percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal or invitation to negotiate process described in subparagraph 2.

5. All enrollees in a state group health insurance plan, a TRICARE supplemental insurance plan, or any health maintenance organization plan have the option of changing to any other health plan that is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated

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contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

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195 a. Based upon a desired benefit package, the department
196 shall issue a request for proposal or invitation to negotiate
197 for health insurance providers interested in participating in
198 the state group insurance program, and the department shall
199 issue a request for proposal or invitation to negotiate for
200 insurance providers interested in participating in the non-
201 health-related components of the state group insurance program.
202 Upon receipt of all proposals, the department may enter into
203 contract negotiations with insurance providers submitting bids
204 or negotiate a specially designed benefit package. Insurance
205 providers offering or providing supplemental coverage as of May
206 30, 1991, which qualify for pretax benefit treatment pursuant to
207 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
208 state employees currently enrolled may be included by the
209 department in the supplemental insurance benefit plan
210 established by the department without participating in a request
211 for proposal, submitting bids, negotiating contracts, or
212 negotiating a specially designed benefit package. These
213 contracts shall provide state employees with the most cost-
214 effective and comprehensive coverage available; however, no
215 state or agency funds shall be contributed toward the cost of
216 any part of the premium of such supplemental benefit plans. With
217 respect to dental coverage, the division shall include in any
218 solicitation or contract for any state group dental program made
219 after July 1, 2001, a comprehensive indemnity dental plan option
220 which offers enrollees a completely unrestricted choice of
221 dentists. If a dental plan is endorsed, or in some manner
222 recognized as the preferred product, such plan shall include a

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comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. 110.161, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

Section 2. Section 288.9416, Florida Statutes, is created to read:

288.9416 Vaccine production facilities; outreach campaign for vaccine production.--Enterprise Florida, Inc., as the principal economic development organization for the state under s. 288.9015, shall conduct an outreach campaign to encourage pharmaceutical companies located in this state to produce vaccines for the prevention of communicable diseases and to encourage pharmaceutical companies located outside of this state to establish facilities in this state to produce vaccines for the prevention of communicable diseases.

Section 3. Subsection (3) of section 381.005, Florida Statutes, is renumbered as section (4), and a new subsection (3) is added to that section, to read:

381.005 Primary and preventive health services.--

(3) Between October 1 of each year, or earlier if the vaccination is available, and February 1 of the following year,

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subject to the availability of an adequate supply of the
necessary vaccine, each assisted living facility licensed
pursuant to chapter 400 that has 11 or more licensed beds shall
implement a program to offer immunizations against the influenza
virus and pneumococcal bacteria to all patients age 65 or older,
in accordance with the recommendations of the Advisory Committee
on Immunization Practices of the United States Centers for
Disease Control and Prevention and subject to the clinical
judgment of the responsible practitioner. By September 1 of each
year, the department or its designee shall send to each assisted
living facility under this section a reminder notice of the
responsibilities of each assisted living facility under this
section.

Section 4. Subsection (23) is added to section 409.908,
 Florida Statutes, to read:

409.908 Reimbursement of Medicaid providers.--Subject to
 specific appropriations, the agency shall reimburse Medicaid
 providers, in accordance with state and federal law, according
 to methodologies set forth in the rules of the agency and in
 policy manuals and handbooks incorporated by reference therein.
 These methodologies may include fee schedules, reimbursement
 methods based on cost reporting, negotiated fees, competitive
 bidding pursuant to s. 287.057, and other mechanisms the agency
 considers efficient and effective for purchasing services or
 goods on behalf of recipients. If a provider is reimbursed based
 on cost reporting and submits a cost report late and that cost
 report would have been used to set a lower reimbursement rate
 for a rate semester, then the provider's rate for that semester

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shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(23) A provider of immunization services shall be reimbursed at the Medicare reimbursement rate for the administration of immunizations in addition to any applicable reimbursement for the ingredient cost of the immunizations.

Section 5. Subsection (13) of section 465.003, Florida Statutes, is amended to read:

465.003 Definitions.--As used in this chapter, the term:

(13) "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or

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orders; and other pharmaceutical services. For purposes of this subsection, "other pharmaceutical services" means the monitoring of the patient's drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient's drug therapy and communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, regarding the drug therapy. However, nothing in this subsection may be interpreted to permit an alteration of a prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. "Practice of the profession of pharmacy" also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. "Practice of the profession of pharmacy" also includes the administration to adults of vaccines under s. 468.189.

Section 6. Section 465.189, Florida Statutes, is created to read:

465.189 Administration of vaccines.--

(1) Pharmacists may administer vaccines to adults within the framework of an established protocol under a supervisory

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practitioner who is a physician licensed under chapter 458 or
chapter 459 or by written agreement with a county health
department. Each protocol shall contain specific procedures for
addressing any unforeseen allergic reaction to a vaccine.

(2) A pharmacist may not enter into a protocol unless he
or she maintains at least \$200,000 of professional liability
insurance and not until the pharmacist has completed training in
vaccines as provided in this section.

(3) A pharmacist administering a vaccine shall maintain
and make available patient records using the same standards for
confidentiality and maintenance of such records as those that
are imposed on health care practitioners under s. 456.057. These
records shall be maintained for a minimum of 5 years.

(4) The decision by a supervisory practitioner to enter
into a protocol under this section is a professional decision of
the practitioner, and a person may not interfere with a
supervisory practitioner's decision as to whether to enter into
such a protocol. A pharmacist may not enter into a protocol that
is to be performed while acting as an employee without the
written approval of the owner of the pharmacy.

(5) Any pharmacist seeking to vaccinate patients under
this section shall be certified to administer vaccines pursuant
to a certification program approved by the Board of Pharmacy.
The certification program shall, at a minimum, require that a
pharmacist attend at least 20 hours of continuing education
classes approved by the board. The program shall have a
curriculum of instruction concerning the safe and effective
administration of vaccines, including, but not limited to,

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363 | potential allergic reactions to vaccines.

364 | (6) The pharmacist shall submit to the Board of Pharmacy a
365 | copy of the protocol or written agreement to administer a
366 | vaccine.

367 | Section 7. Section 627.64194, Florida Statutes, is created
368 | to read:

369 | 627.64194 Coverage for immunizations.--An accident or
370 | health insurance policy issued, amended, delivered, or renewed
371 | in this state shall provide an option for the insured to elect
372 | coverage for immunization services.

373 | (1) The immunizations covered under this section shall
374 | include: diphtheria; hepatitis B; measles; mumps; pertussis;
375 | polio; rubella; tetanus; hemophilus influenza B (HIB);
376 | pneumococcal; meningococcal; and any other immunization that the
377 | Advisory Committee on Immunization Practices of the United
378 | States Centers for Disease Control and Prevention or the
379 | Department of Health determines to be recommended or required by
380 | law, or that the Centers for Disease Control and Prevention
381 | recommends or requires for specific international travel that
382 | the policyholder is conducting.

383 | (2) The coverage may be offered for an appropriate
384 | additional premium.

385 | (3) The coverage shall be offered without being subject to
386 | the deductible copayment or coinsurance provisions of the
387 | policy.

388 | Section 8. Paragraph (c) is added to subsection (10) of
389 | section 1003.22, Florida Statutes, to read:

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390 1003.22 School-entry health examinations; immunization
391 against communicable diseases; exemptions; duties of Department
392 of Health.--

393 (10) Each district school board and the governing
394 authority of each private school shall:

395 (c) Provide detailed information concerning the causes,
396 symptoms, and transmission of meningococcal disease; the risks
397 associated with meningococcal disease; and the availability,
398 effectiveness, and known contraindications of any required or
399 recommended vaccine against meningococcal disease to every
400 student's parent, in accordance with the recommended ages of
401 students determined by the Department of Health to be
402 appropriate for the administration of such vaccine. The
403 department shall adopt rules that specify the age or grade level
404 of students for whom such information shall be provided,
405 consistent with the recommendations of the Advisory Committee on
406 Immunization Practices of the United States Centers for Disease
407 Control and Prevention concerning the appropriate age for the
408 administration of the vaccine, and shall make available
409 information concerning the causes symptoms, and transmission of
410 meningococcal disease; the risks associated with meningococcal
411 disease; and the availability, effectiveness, and known
412 contraindications of any required or recommended vaccine to
413 school districts and the governing authorities of each private
414 school. Each district school board and the governing authority
415 of each private school shall determine the means and methods for
416 the provision of such information to students' parents.

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Section 9. Subsection (5) of section 1009.53, Florida Statutes, is amended to read:

1009.53 Florida Bright Futures Scholarship Program.--

(5) The department shall issue awards from the scholarship program annually. Annual awards may be for up to 45 semester credit hours or the equivalent. Awards shall include coverage for the student to receive immunizations required by the Florida State University System for enrollment, and shall include one-time coverage for the recommended meningococcal immunization at the option of the student. Awards shall include coverage for yearly recommended influenza immunizations. Before the registration period each semester, the department shall transmit payment for each award to the president or director of the postsecondary education institution, or his or her representative, except that the department may withhold payment if the receiving institution fails to report or to make refunds to the department as required in this section.

(a) Within 30 days after the end of regular registration each semester, the educational institution shall certify to the department the eligibility status of each student who receives an award. After the end of the drop and add period, an institution is not required to reevaluate or revise a student's eligibility status, but must make a refund to the department if a student who receives an award disbursement terminates enrollment for any reason during an academic term and a refund is permitted by the institution's refund policy.

(b) An institution that receives funds from the program shall certify to the department the amount of funds disbursed to

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each student and shall remit to the department any undisbursed advances within 60 days after the end of regular registration.

(c) Each institution that receives moneys through this program shall prepare an annual report that includes an annual financial audit, conducted by an independent certified public accountant or the Auditor General. The report shall include an audit of the institution's administration of the program and a complete accounting of the moneys for the program. This report must be submitted to the department annually by March 1. The department may conduct its own annual audit of an institution's administration of the program. The department may request a refund of any moneys overpaid to the institution for the program. The department may suspend or revoke an institution's eligibility to receive future moneys for the program if the department finds that an institution has not complied with this section. The institution must remit within 60 days any refund requested in accordance with this subsection.

Section 10. Subsection (2) of section 1009.98, Florida Statutes, is amended to read:

1009.98 Stanley G. Tate Florida Prepaid College Program.--

(2) PREPAID COLLEGE PLANS.--At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan. All plans shall include coverage for the student to receive immunizations required by the Florida State University System for enrollment and shall include one-time coverage for the recommended

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473 meningococcal immunization at the option of the student. Awards
474 shall include coverage for yearly recommended influenza
475 immunizations. The board may restrict the number of participants
476 in the community college plan, university plan, and dormitory
477 residence plan, respectively. However, any person denied
478 participation solely on the basis of such restriction shall be
479 granted priority for participation during the succeeding year.

480 (a)1. Through the community college plan, the advance
481 payment contract shall provide prepaid registration fees for a
482 specified number of undergraduate semester credit hours not to
483 exceed the average number of hours required for the conference
484 of an associate degree. Qualified beneficiaries shall bear the
485 cost of any laboratory fees associated with enrollment in
486 specific courses. Each qualified beneficiary shall be classified
487 as a resident for tuition purposes, pursuant to s. 1009.21,
488 regardless of his or her actual legal residence.

489 2. Effective July 1, 1998, the board may provide advance
490 payment contracts for additional fees delineated in s. 1009.23,
491 not to exceed the average number of hours required for the
492 conference of an associate degree, in conjunction with advance
493 payment contracts for registration fees. Community college plan
494 contracts purchased prior to July 1, 1998, shall be limited to
495 the payment of registration fees as defined in s. 1009.97.

496 (b)1. Through the university plan, the advance payment
497 contract shall provide prepaid registration fees for a specified
498 number of undergraduate semester credit hours not to exceed the
499 average number of hours required for the conference of a
500 baccalaureate degree. Qualified beneficiaries shall bear the

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cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 1009.21, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 1009.24(8)-(11), for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree, in conjunction with advance payment contracts for registration fees. Such contracts shall provide prepaid coverage for the sum of such fees, to a maximum of 45 percent of the cost of registration fees. University plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in s. 1009.97.

(c) The cost of participation in contracts authorized under paragraph (a) or paragraph (b) shall be based primarily on the current and projected registration fees within the Florida Community College System or the State University System, respectively, and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary.

(d) Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university. Dormitory residence plans shall be purchased in increments of 2 semesters. The cost of participation in the

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529 | dormitory residence plan shall be based primarily on the average
530 | current and projected housing fees within the State University
531 | System and the number of years expected to elapse between the
532 | purchase of the plan on behalf of a qualified beneficiary and
533 | the exercise of the benefits provided in the plan by such
534 | beneficiary. Qualified beneficiaries shall have the highest
535 | priority in the assignment of housing within university
536 | residence halls. Qualified beneficiaries shall bear the cost of
537 | any additional elective charges such as laundry service or long-
538 | distance telephone service. Each state university may specify
539 | the residence halls or other university-held residences eligible
540 | for inclusion in the plan. In addition, any state university may
541 | request immediate termination of a dormitory residence contract
542 | based on a violation or multiple violations of rules of the
543 | residence hall or other university-held residences. In the event
544 | that sufficient housing is not available for all qualified
545 | beneficiaries, the board shall refund the purchaser or qualified
546 | beneficiary an amount equal to the fees charged for dormitory
547 | residence during that semester. If a qualified beneficiary fails
548 | to be admitted to a state university or chooses to attend a
549 | community college that operates one or more dormitories or
550 | residency opportunities, or has one or more dormitories or
551 | residency opportunities operated by the community college
552 | direct-support organization, the qualified beneficiary may
553 | transfer or cause to have transferred to the community college,
554 | or community college direct-support organization, the fees
555 | associated with dormitory residence. Dormitory fees transferred
556 | to the community college or community college direct-support

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557 organization may not exceed the maximum fees charged for state
558 university dormitory residence for the purposes of this section,
559 or the fees charged for community college or community college
560 direct-support organization dormitories or residency
561 opportunities, whichever is less.

562 Section 11. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 543**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Health Innovation
Representative(s) Homan offered the following:

Amendment (with directory and title amendments)

Remove line(s) 298-366

===== T I T L E A M E N D M E N T =====

Remove line(s) 14-27 and insert:

of Medicaid providers of immunization services;

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